4715. By Mr. IZAC: Joint letter from the Townsend Club, No. 33, San Diego, Calif., signed by the club secretary, H. F. Higgins, San Diego, Calif., urging the enactment of House bill 4199, the General Welfare Act; to the Committee on Ways and Means.

4716. By Mr. KENNEDY of New York: Petition of the Conservation Department of the State of New York, Albany, urging an additional $50,000,000 for the Civilian Conservation Corps during the 1939 fiscal year; to the Committee on Labor.

4717. Also, petition of the Brooklyn Society for Ethical Culture, Brooklyn, N. Y., relating to the May bill (H. R. 9391); to the Committee on Military Affairs.

4718. Also, petition of Sperry Products, Inc., Brooklyn, N. Y., relating to the Borah-O'Mahoney Federal licensing bill; to the Committee on the Judiciary.

4719. By Mr. KEOGH: Petition of the Assembly, Legislature of the State of New York, opposing the passage of House bill 8327; to the Committee on Rivers and Harbors.

4720. Also, petition of the National Can Corporation, New York City, concerning House bill 6323, to prevent the use of the words "U. S.," "United States," "National," and "Federal," or either of them, in trade names or private business; to the Committee on the Judiciary.

4721. By Mr. MERRITT: Resolution of the Assembly of the State of New York (concurred in by the senate), memorializing the Congress of the United States to disapprove House bill 8327, which was referred to the Committee on Rivers and Harbors; to the Committee on Rivers and Harbors.

4722. By Mr. O'CONNOR of New York: Resolution of the Assembly of the State of New York; to the Committee on Rivers and Harbors.

SENATE

FRIDAY, APRIL 1, 1938

(Legislative day of Wednesday, January 5, 1938)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, March 31, 1938, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, returned to the Senate, in compliance with its request, the bill (S. 3096) to amend section 35 of the Criminal Code, as amended (U. S. C., title 18, sec. 82), relating to purloining, stealing, or injuring property of the United States.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled joint resolution (S. J. Res. 277) creating a special joint congressional committee to make an investigation of the Tennessee Valley Authority, and it was signed by the Vice President.

CALL OF THE ROLL

Mr. BARKLEY. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Bulow	Ellender	Herring
Andrews	Burke	Frazier	Hill
Ashurst	Byrd	George	Hitchcock
Austin	Byrnes	Gerry	Holt
Bailey	Capper	Gibson	Hughes
Bankhead	Caraway	Gillette	Johnson, Calif.
Barkley	Clark	Glass	Johnson, Colo.
Bilbo	Connally	Green	King
Bone	Copeland	Hale	Lodge
Borah	Davis	Harrison	Logan
Brown, Mich.	Donahey	Hatch	Lonergan
Bulkley	Duffy	Hayden	Lundeen
McAdoo	Murray	Reynolds	Thomas, Utah
McCarran	Neely	Russell	Townsend
La Follette	Norris	Schwartz	Truman
McGill	O'Mahoney	Schwellenbach	Tydings
McKellar	Overton	Sheppard	Vandenberg
McNary	Pittman	Shipstead	Wagner
Maloney	Pope	Smathers	Walsh
Miller	Radcliffe	Smith	Wheeler
Minton	Reames	Thomas, Okla.	

Mr. MINTON. I announce that the Senator from Tennessee [Mr. BERRY] is detained from the Senate because of illness in his family.

The Senator from New Hampshire [Mr. BROWN], the Senator from New Mexico [Mr. CHAVEZ], the Senators from Illinois [Mr. DIETERICH and Mr. LEWIS], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Oklahoma [Mr. LEE], the Senator from New Jersey [Mr. MILTON], the Senator from Florida [Mr. PEPPER], and the Senator from Indiana [Mr. VAN NUYS] are detained on important public business.

The VICE PRESIDENT. Eighty-three Senators have answered to their names. A quorum is present.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a letter in the nature of a memorial from Mr. and Mrs. J. B. Thompson, of Wabaunsee, Kans., remonstrating against the enactment of the bill (S. 25) to prevent profiteering in time of war and to equalize the burdens of war and thus provide for the national defense, and promote peace, which was referred to the Committee on Finance.

Mr. CAPPER presented resolutions adopted by the Coffeyville (Kans.) Central Labor Union, condemning the administration of the National Labor Relations Board and requesting a congressional investigation of the Board, which were referred to the Committee on Education and Labor.

THE WASHINGTON AIRPORT

Mr. GIBSON. Mr. President, for over 12 years there has been an effort made to secure an adequate airport for the city of Washington. During this period there have been more than 30 hearings by various committees of the House and Senate and by two congressional commissions. So far nothing constructive has resulted.

Over 3 years ago I introduced a bill providing for a permanent airport at Gravelly Point and making provisions for the leasing of an additional or auxiliary port if and when needed. A short time after this bill was introduced a number of local organizations endorsed it; among these were the Washington Board of Trade, Federation of Citizens' Associations, Merchants' and Manufacturers' Association, Aero Club of Washington, and the National Capital Park and Planning Commission.

During the present Congress two bills have passed the Senate upon which no hearings have been held. Neither of these bills were acceptable to the Bureau of the Budget or had the approval of the President. If either of these bills pass the House, it can be reasonably anticipated that they will be vetoed.

If anything constructive is to be done with airport legislation during this session, it is imperative that action be taken immediately. I believe that my bill is in accordance with the wishes of the President.

I ask unanimous consent that in connection with these remarks there be printed in the CONGRESSIONAL RECORD the opinion of Gen. Hugh S. Johnson which appeared in the Washington Daily News March 22, a statement accredited to Ambassador William C. Bullitt which appeared in the Washington Herald on March 28, and an editorial appearing in the Washington Post March 27, 1938.

I further ask that the opinion, statement, and editorial be referred to the Committee on the District of Columbia.

There being no objection, the opinion, statement, and editorial were referred to the Committee on the District of Columbia and ordered to be printed in the RECORD, as follows:

[From the Washington Herald of March 28, 1938]

BULLITT, HERE, CALLS AIRPORT A "DISGRACE"

Silent on national and international affairs but voluble about the deficiencies of Washington's airport, Ambassador William "Bill"

Bullitt, United States envoy to France, passed through the city last night.

He was en route by air from Warm Springs, Ga., where he conferred with the President, to New York.

AIRPORT DISGRACE

As his Eastern Airlines plane swept in from the southland there was a shift in the wind, the pilot turned back and started for Bolling Field, then the wind shifted again and back came the airliner to Washington-Hoover Airport, late.

With his big hands thrust in the pockets of his smart double-breasted gray spring suit, the Ambassador said:

"Washington Airport is a national disgrace.

"I am amazed that something hasn't been done about it."

[From the Washington Daily News of March 22, 1938]

ONE MAN'S OPINION

(By Hugh S. Johnson)

Here is something from a letter written to me by a distinguished and public-spirited aviator about what he calls "that stinking situation in the B. A. C." B. A. C. means "Bureau of Air Commerce." My fan letter was about a column I wrote panning that Bureau for too much bureaucracy and not enough common sense in supervising the construction of airplanes.

This is a crack from another angle:

"And while you are about it, please very much say something about that frightful Washington Airport mess. Every time I fly over it I thank God I'm a military pilot and may land at Bolling instead of risking my life at the other place. But I also wonder that our democracy doesn't stand on its hind legs and for pride's sake do something about it. It is things like that from which dictators get their arguments. Hitler might well sneer a disdainful sneer as he compares—or contrasts rather—Tempelhof Airdrome with the landing patch which serves the Capital of the greatest democracy.

"And of course it all goes back to the B. A. C. If that organization were headed up by executives and doers instead of parlor politicos (an epithet, alas, which applied to our Vidal) and lawyers, a real plan would have been put to Congress long years ago and pushed and pushed and pushed by the B. A. C. until something was done. But the whole job has been left apathetically in the lap of Congress, and that body being made up entirely of Congressmen, and not airmen, is still 'making surveys,' according to latest dispatches, over 12 long years after the problem was first recognized."

The Washington Airport is wrong every way—too small, badly located and designed, intersected by an arterial highway, treacherous, and, above all, dangerous. I think the very hazard of take-offs and landings there has something to do with the fact that there have not been more accidents. Greater precautions have to be taken than at a decent field, and the fact that there is more danger keeps everyone alert. But that is no proper consideration for maintaining a potential death trap at the aerial front door of our Capital City. It is a matter of national and not merely local pride and concern.

What the letter says is right. There are at least two other excellent sites. Everybody admits and nobody challenges these criticisms of the present terminal. Politics and private interests keep the move for change stopped. It is an official lethargy that will probably only be broken by some frightful disaster. When that comes there will be no place to put the blame except on the shoulders of the people responsible for not removing a risk recognized by everybody.

Traffic at this port is heavy—too heavy for its facilities. It will increase as Federal functions increase. Some of it is official and necessitous—men flying in public service, not because they want to but because they must. This isn't to say that there is any more reason to care for their safety than of that of the flying public everywhere and all the time—but certainly there is no less reason.

Finally, the point in the letter is good that there ought to be some element of pride in providing airport facilities at the National Capital at least fit to serve as front yard for a dog house.

No airport in the country is entirely satisfactory. Aircraft are developing in size and speed faster than the development of fields adequate for their reception. But of all the important airports I have seen—and I think I have seen them all—the Washington Airport is by long odds the worst. That consideration alone should be enough to get something done about this dangerous and disgraceful condition.

[From the Washington Post of March 27, 1938]

REAL AIRPORT EMERGENCY

Little enthusiasm will be aroused by passage of the Senate bill to close that portion of Military Road which bisects Washington Airport. Last year the President vetoed a similar measure. Whether or not the present bill is permitted to become law, it will leave the airport problem of the Nation's Capital still unsolved.

The bill vetoed last September would have permitted the addition of 53 acres of the Arlington Experimental Farm to the airport and the filling of the nearby lagoon. Even with those improvements, however, the President concluded that it would remain one of the "poorest fields in the entire Nation for large planes carrying passengers and mail." Without those additions, the mere closing of Military Road would leave the field utterly inadequate.

One hazard would be eliminated by the rerouting of traffic in this neighborhood. But what the city needs most is an entirely new landing field. Last year the Senate passed a bill authorizing construction of a national airport at Camp Springs, Md. But since it has developed that this project would necessitate the scrapping of the Navy's nearby radio receiving station on which $800,000 had been spent some time ago, that would seem to eliminate Camp Springs from further consideration.

President Roosevelt gave a strong endorsement to the Gravelly Point site. But the Bureau of Public Roads is building an experimental plant so near this site on the south side of the Potomac as to impair its usefulness as a landing field. Secretary Wallace has refused to stop the work, although only minor sums have been spent thus far, unless there is some positive action on Capitol Hill. But the House Committee on Public Buildings and Grounds seems to be just letting the matter drift.

Another bill before the committee proposes development of an airport on the Suitland site about 2 miles closer to the city than Camp Springs. But attempts to investigate this area seem to have bogged down also. Washington is in danger of having all the best sites for a landing field ruined for that purpose before Congress decides to act.

The need for some solution of the dilemma is so urgent that a special message from the President seems to be called for. At least President Roosevelt might instruct Secretary Wallace to withhold further construction work in the vicinity of Gravelly Point until the issue can be settled. Here is an even greater emergency than the continued use of Military Road.

REPORTS OF COMMITTEES

Mr. COPELAND, from the Committee on Commerce, to which were referred the following bills and joint resolutions, reported them severally without amendment and submitted reports thereon:

S. 3540. A bill for the relief of Esmerald Goodman, boatswain's mate, first class (lifesaving); Raymond H. Wilson, boatswain's mate, first class (lifesaving); Louis J. Burns, motor machinist's mate, first class (lifesaving); Silvie S. Langton, surfman; Eudorus J. Brown, surfman; Kenneth G. Sherwood, surfman; Alvin Combs, surfman; William E. Knight, surfman; Olaaf E. Staar, surfman; and Ejner E. Jensen, surfman (Rept. No. 1554);

S. 3654. A bill to improve the efficiency of the Lighthouse Service, and for other purposes (Rept. No. 1555);

S. 3734. A bill for the relief of certain officers and enlisted men of the United States Coast Guard (Rept. No. 1556);

H. R. 8715. A bill to authorize the Secretary of Commerce of the United States to grant and convey to the State of Delaware fee title to certain lands of the United States in Kent County, Del., for highway purposes (Rept. No. 1557);

H. R. 9526. A bill to amend the act of May 27, 1908, authorizing settlement of accounts of deceased officers and enlisted men of the Navy and Marine Corps (Rept. No. 1558);

H. J. Res. 463. Joint resolution to permit the transportation of passengers by Canadian passenger vessels between the port of Rochester, N. Y., and the port of Alexandria Bay, N. Y., on Lake Ontario and the St. Lawrence River (Rept. No. 1559); and

H. J. Res. 573. Joint resolution to amend the joint resolution entitled "Joint resolution authorizing Federal participation in the New York World's Fair, 1939" (Rept. No. 1560).

Mr. SHEPPARD, from the Committee on Commerce, to which was referred the bill (H. R. 8714) authorizing the State of Maryland, by and through its State Roads Commission or the successors of said commission, to construct, maintain, and operate certain bridges across streams, rivers, and navigable waters which are wholly or partly within the State, reported it without amendment and submitted a report (No. 1561) thereon.

Mr. CONNALLY, from the Committee on Public Buildings and Grounds, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 8654. A bill to amend the act entitled "An act authorizing the Secretary of the Treasury to convey to the city of Wilmington, N. C., Marine Hospital Reservation,"

being chapter 93, United States Statutes at Large, volume 42, part 1, page 1260, approved February 17, 1923 (Rept. No. 1562); and

H. R. 9418. A bill to amend an act entitled "An act authorizing the Secretary of the Treasury to convey to the Board of Education of New Hanover County, N. C., portion of marine hospital reservation not needed for marine hospital purposes," approved July 10, 1912 (37 Stat. 191) (Rept. No. 1563).

Mr. McGILL, from the Committee on Pensions, to which was referred the bill (H. R. 5030) granting pensions and increases of pensions to certain soldiers, sailors, and nurses of the War with Spain, the Philippine Insurrection, or the China Relief Expedition, and for other purposes, reported it without amendment and submitted a report (No. 1564) thereon.

ENROLLED JOINT RESOLUTION PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on today, April 1, 1938, that committee presented to the President of the United States the enrolled joint resolution (S. J. Res. 277) creating a special joint congressional committee to make an investigation of the Tennessee Valley Authority.

ADMINISTRATION AND OPERATION OF CIVIL-SERVICE LAWS

Mr. BYRNES. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably with an additional amendment the resolution (S. Res. 198) and ask unanimous consent for its immediate consideration.

There being no objection, the Senate proceeded to consider the resolution, which had been submitted by Mr. ELLENDER on November 18, 1937.

The resolution had been reported from the Committee on Civil Service on the calendar day January 24, 1938, with amendments on page 1, line 1, before the word "Senators", to strike out "three" and insert "five"; and on page 2, line 15, to insert "$10,000."

The amendment reported by the Committee to Audit and Control the Contingent Expenses of the Senate was, on page 2, line 15, to strike out "$10,000" and insert "$2,500", so as to make the resolution read:

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of the administration and operation of the civil-service laws and the Classification Act of 1923, as amended, with a view to determining, among other things, (1) the extent to which discrimination is practiced by appointing and supervisory officials with respect to appointments, promotions, transfers, reinstatements, disciplinary action, and allocation of positions in the Government service; and (2) the adequacy of the opportunity for impartial hearing given to employees who are discriminated against with regard to such matters. The committee so appointed shall report to the Senate, at the earliest practicable date, the results of its investigation, together with its recommendations.

For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate in the Seventy-fifth and succeeding Congresses, to employ such clerical and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $2,500, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

The amendments were agreed to.

The resolution, as amended, was agreed to.

ROSALIE HOOPER

Mr. BYRNES. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably, without amendment, Senate Resolution 245 and ask unanimous consent for its immediate consideration.

There being no objection, the resolution (S. Res. 245) submitted by Mr. COPELAND on March 22 instant was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate to Rosalie Hooper, sister of Virgil M. Healy, late a private of the Capitol Police under supervision of the Sergeant at Arms a sum equal to 6 months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

ALICE WILKINSON OLDFIELD

Mr. BYRNES. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably, without amendment, Senate Resolution 257 and ask unanimous consent for its immediate consideration.

There being no objection, the resolution (S. Res. 257) submitted by Mr. TYDINGS on March 25 instant, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate to Alice Wilkinson Oldfield, widow of Edmund L. Oldfield, late an employee of the Senate, a sum equal to 6 months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

AUTHORITY FOR COMMITTEES ON APPROPRIATIONS AND FINANCE TO SUBMIT REPORTS DURING RECESS

Mr. BARKLEY. Mr. President, I ask unanimous consent that during any recess of the Senate the Committee on Appropriations and the Committee on Finance be authorized to make any report on any measure which they may have ready to report to the Senate.

The VICE PRESIDENT. Without objection, it is so ordered.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. DAVIS:

A bill (S. 3771) for the relief of the National Forge & Ordnance Co.; to the Committee on Naval Affairs.

By Mr. WHEELER (for himself and Mr. WAGNER):

A bill (S. 3772) to regulate interstate commerce by establishing an unemployment insurance system for individuals employed by certain employers engaged in interstate commerce, and for other purposes; to the Committee on Interstate Commerce.

By Mr. WAGNER:

A bill (S. 3773) to amend the act approved June 13, 1934, conferring jurisdiction upon the Court of Claims of the United States to hear, consider, and render judgment on certain claims of George A. Carden and Anderson T. Herd against the United States; to the Committee on Claims.

A bill (S. 3774) to authorize cooperation between the United States and the State of New York in the protection of the public interest and welfare inherent in certain forest lands in said State through provision for the acquisition and management of said lands; to the Committee on Public Lands and Surveys.

By Mr. BONE:

A bill (S. 3775) granting an increase of pension to Charles L. Shaeffer; to the Committee on Pensions.

By Mr. BAILEY:

A bill (S. 3776) for the relief of Mary C. Isaacs (with an accompanying paper); to the Committee on Claims.

By Mr. DUFFY:

A bill (S. 3777) to correct the naval record of Edward Joseph Metiver; to the Committee on Naval Affairs.

AMENDMENT TO WAR DEPARTMENT APPROPRIATION BILL

Mr. SHEPPARD submitted an amendment intended to be proposed by him to the bill (H. R. 9995) making appropriations for the Military Establishment for the fiscal year ending June 30, 1939, and for other purposes, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 27, line 3, after the figures "$350,000", to insert "at Kelly Field, Tex., $2,495,300."

NOTICE OF MOTION TO SUSPEND THE RULES—APPROPRIATIONS FOR THE INTERIOR DEPARTMENT

Mr. HAYDEN submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing of my intention hereafter to move

to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H. R. 9621) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1939, and for other purposes; the following amendments, viz: At the proper place in the bill to insert the following amendments:

(1) At the proper place insert the following: "investigating official matters under the control of the Department of the Interior; for."

(2) After "1934" and before the period, insert ": *Provided further*, That title may be accepted subject to a reservation of the oil, gas, and minerals to lands yet to be acquired through purchase or exchange under authority contained in this paragraph or in the act of June 14, 1934."

(3) After the word "reservations", insert the following: ": *Provided further*, That in addition to the amount herein appropriated the Secretary of the Interior may also incur obligations, and enter into contracts for the acquisition of additional land, not exceeding a total of $250,000, and his action in so doing shall be deemed a contractual obligation of the Federal Government for the payment of the cost thereof, and appropriations hereafter made for the acquisition of land pursuant to the authorization contained in the act of June 18, 1934, shall be available for the purpose of discharging the obligation or obligations so created: *Provided further*, That no part of the sum herein appropriated or of this contract authorization shall be used for the acquisition of land within the States of Arizona, Colorado, New Mexico, and Wyoming outside of the boundaries of existing Indian reservations."

(4) After the word "self-supporting", insert the following: ": *Provided*, That hereafter the expenditures for the purposes above set forth shall be under conditions to be prescribed by the Secretary of the Interior for repayment to the United States on or before the expiration of 5 years, except in the case of loans on irrigable lands for permanent improvement of said lands, in which the period for repayment may run for not exceeding 20 years, in the discretion of the Secretary of the Interior: *Provided further*, That except for the Navajo Indians in Arizona and New Mexico not to exceed $25,000 of the amount herein appropriated shall be expended on any one reservation or for the benefit of any one tribe of Indians: *Provided further*, That hereafter the Secretary of the Interior is authorized, in his discretion and under such rules and regulations as he may prescribe, to make advances from this appropriation to old, disabled, or indigent Indian allottees, for their support, to remain a charge and lien against their land until paid: *Provided further*, That not to exceed $15,000 may be advanced to worthy Indian youths to enable them to take educational courses, including courses in nursing, home economics, forestry, and other industrial subjects in colleges, universities, or other institutions, and advances so made shall be reimbursed in not to exceed 8 years, under such rules and regulations as the Secretary of the Interior may prescribe."

(5) "San Carlos project (Pima Reservation), Arizona: The Secretary of the Interior is hereby authorized to enter into a contract or contracts prior to July 1, 1939, for the development of additional power, San Carlos project (Pima Reservation), Arizona, at a total cost of not to exceed $300,000, reimbursable."

(6) "Reindeer industry, Alaska: To carry out the provisions of the act of September 1, 1937 (50 Stat. 900), entitled 'An act to provide subsistence for the Eskimos and other natives of Alaska by establishing for them a permanent and self-sustaining economy; to encourage and develop native activity in all branches of the reindeer industry; and for other purposes', including not to exceed $5,000 for personal services in the District of Columbia, purchase, rental, erection, and repair of range cabins, purchase and maintenance of communication and other equipment necessary to fulfill the purposes of said act, $25,000: *Provided*, That in addition to the amount herein appropriated the Secretary of the Interior may also incur obligations, and enter into contracts for the purchase of reindeer and range equipment from nonnative owners, not exceeding a total of $500,000, and his action in so doing shall be deemed a contractual obligation of the Federal Government for the payment of the cost thereof, and appropriations hereafter made for the purchase of reindeer pursuant to the authorization contained in the act of September 1, 1937, shall be available for the purpose of discharging the obligation or obligations so created: *Provided further*, That before purchasing reindeer or range equipment of nonnative owners of reindeer an appraisal of such reindeer or range equipment shall be made by a committee consisting of a representative of the Department of the Interior, a representative of the Department of Agriculture, and a third person not an employee of any agency of the Government to be selected jointly by the Secretaries of Interior and Agriculture without regard to civil-service laws, rules, and regulations and the Classification Act of 1923 as amended, and this appropriation may be used for the salaries and expenses of such appraisal committee: *Provided further*, That no part of the appropriation herein made or the amount authorized to be contracted for shall be available for the purchase, rental, or acquisition of abbatoirs, cold storage plants, packing plants, and other facilities for the slaughter or shipment of reindeer meat."

(7) "Expense of tribal councils or committees thereof (tribal funds): For traveling and other expenses of members of tribal councils, business committees, or other tribal organizations, when engaged on business of the tribes, including supplies and equipment, not to exceed $5 per diem in lieu of subsistence, and not to exceed 5 cents per mile for use of personally owned automobiles, and including not more than $25,000 for visits to Washington, D. C., when duly authorized or approved in advance by the Commissioner of Indian Affairs, $100,000, payable from funds on deposit to the credit of the particular tribe interested: *Provided*, That, except for the Navajo Tribe, not more than $5,000 shall be expended from the funds of any one tribe or band of Indians for the purposes herein specified: *Provided further*, That no part of this appropriation shall be available for expenses of members of tribal councils, business committees, or other tribal organizations, when in Washington, for more than a 30-day period, unless the Secretary of the Interior shall in writing approve a longer period: *Provided further*, That hereafter tribal funds shall be available for appropriation by Congress for traveling and other expenses, including supplies and equipment, of members of tribal councils, business committees, or other tribal organizations, when engaged on business of the tribes."

(8) Increase in the reclamation fund: That section 35 of an act entitled "An act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", as amended, is amended by striking the proviso at the end thereof and inserting a period in place of the colon following the word "direct", and by adding the following paragraph:

"Fifty-two and one-half percent of all moneys which may accrue to the United States after June 30, 1938, from lands within the naval petroleum reserves, except those in Alaska, shall be covered into the reclamation fund, and the remainder shall be paid into the Treasury as miscellaneous receipts.

"The Secretary of the Treasury is authorized and directed to transfer to the credit of the reclamation fund, created by the act of June 17, 1902 (32 Stat. 388), a sum equal to the difference between (1) 52½ percent of the moneys which the Secretary of the Treasury shall determine to have accrued to the United States from lands within the naval petroleum reserves, except those in Alaska, from February 25, 1920, to June 30, 1938, inclusive, and (2) the total of all sums advanced to the reclamation fund under the provisions of the act entitled 'An act to authorize advances to the reclamation fund, and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes', approved June 25, 1910 (36 Stat. 835), as amended, and under the provisions of the act entitled 'An act to authorize advances to the reclamation fund, and for other purposes", approved March 3, 1931 (46 Stat. 1507), as amended, and not reimbursed by transfer from the reclamation fund to the general funds in the Treasury. The transaction provided for in this section shall be deemed to have effected a complete reimbursement to the general funds in the Treasury of all sums advanced to the reclamation fund under the provisions of such acts of June 25, 1910, and March 3, 1931, as amended.

"All moneys received by the United States in connection with any irrigation projects, including the incidental power features thereof, constructed by the Secretary of the Interior through the Bureau of Reclamation, and financed in whole or in part with moneys heretofore or hereafter appropriated or allocated therefor by the Federal Government, shall be covered into the reclamation fund: *Provided*, That after the net revenues derived from the sale of power developed in connection with any of said projects shall have repaid those construction costs of such project allocated to power to be repaid by power revenues therefrom and shall no longer be required to meet the contractual obligations of the United States, then said net revenues derived from the sale of power developed in connection with such project shall, after the close of each fiscal year, be transferred to and covered into the General Treasury as 'miscellaneous receipts': *Provided further*, That nothing in this section shall be construed to amend the Boulder Canyon Project Act (45 Stat. 1057), as amended, or to apply to irrigation projects of the Office of Indian Affairs."

(9) "For cooperative investigations, including investigations in the so-called 'dust bowl,' in cooperation with the Corps of Engineers, the Farm Security Administration, and other Federal agencies, of irrigation, flood control and resettlement possibilities of proposed projects, $200,000, of which $25,000 shall be available for the proposed Altus project, Oklahoma; said funds to be available for expenditure by the Secretary of the Interior, and by the Corps of Engineers, the Farm Security Administration, and other Federal agencies, upon transfer pursuant to agreement between the said Secretary and any of the said agencies."

(10) "The Secretary of the Interior is authorized to furnish water for the use of the Arizona State Experiment Farm, embracing the W. ½ SW. ¼ of section 28, T. 9 S., R. 23 W., Gila and Salt River meridian, together with such areas as may be added thereto, the cost, not exceeding $750 annually, to be paid from the appropriations for the Gila project."

(11) After line —, insert as a new paragraph:

"The last line of section 10 of the act of April 1, 1932 (47 Stat. 75), as amended by the act of March 3, 1933 (47 Stat. 1427), and by the act of June 22, 1936 (49 Stat. 1757), is hereby further amended by substituting '1940' for '1938'."

THE PROBLEMS OF AGRICULTURE

Mr. HATCH. Mr. President, I hold in my hand a magazine, which I have not seen before, called Ken, which was handed to me by a Senator this morning. In turning through the pages I notice an article on the farm problem. As a member of the Committee on Agriculture and Forestry I was particularly interested in the article. There are so

many unusual phases discussed in it that I venture to call the article to the attention of the Senate and to suggest that Senators read it in order that they may get some ideas which have not been suggested from other sources.

There are some very gripping and striking phrases contained in the article. I wish to read one that appears in this language:

FARMING IS A WAY OF DEATH

All over the world the sun shines and seeds sprout but poverty sits in the green fields. International agriculture collapsed along with world trade and today the farmer's yell for help is universal. Every nation answers with aid, not for love of farmer but for fear of famine in event of war. Regimes hell bent on national strength and glory enlist the plowshare as a sword to prepare for the planned blood bath. Thus farming, long a way of life and once a way of profit, becomes in a double sense a way of death, as farmers at starvation wages work for war.

Mr. President, I ask unanimous consent that the entire article may be printed in the Appendix of the RECORD.

There being no objection, the article was ordered to be printed in the Appendix.

FEDERAL AID TO EDUCATION—ADDRESS BY SENATOR THOMAS OF UTAH

[Mr. HARRISON asked and obtained leave to have printed in the RECORD a radio address delivered by Senator THOMAS of Utah on the subject of Federal Aid to Education, on April 1, 1938, which appears in the Appendix.]

COLUMBIA RIVER AND ITS RESOURCES—ARTICLE FROM PORTLAND OREGONIAN

[Mr. LONERGAN asked and obtained leave to have printed in the RECORD an article on the Columbia River and its resources, published in the Portland Oregonian's special annual edition, which appears in the Appendix.]

TRUTH ABOUT WAR IN SPAIN—ARTICLE FROM BOSTON POST

[Mr. WALSH asked and obtained leave to have printed in the RECORD an article entitled "Truth About War in Spain," by John Bantry, published in the Boston Sunday Post of March 27, 1938, which appears in the Appendix.]

A REFUGEE'S PRAYER

[Mr. DAVIS asked and obtained leave to have printed in the Appendix of the RECORD an article appearing in the Washington (D. C.) Herald of Thursday, March 31, 1938, entitled "A Refugee's Prayer," which appears in the Appendix.]

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 9544) making appropriations for the Departments of State and Justice and for the judiciary, and for the Departments of Commerce and Labor, for the fiscal year ending June 30, 1939, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MCMILLAN, Mr. TARVER, Mr. MCANDREWS, Mr. RABAUT, Mr. CALDWELL, Mr. BACON, and Mr. CARTER were appointed managers on the part of the House at the conference.

CREDIT FACILITIES FOR BUSINESS ENTERPRISES

The Senate resumed the consideration of the bill (S. 3735) to amend section 5d of the Reconstruction Finance Corporation Act, as amended, to authorize loans to public agencies, to provide credit facilities for business enterprises, and for other purposes.

The VICE PRESIDENT. When the Senate adjourned last evening, the pending question on the unfinished business, Senate bill 3735, was on agreeing to the committee amendment, as amended, and that is the question now before the Senate.

The committee amendment, as amended, was agreed to.

The VICE PRESIDENT. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

The bill was passed.

EXECUTIVE SESSION

Mr. BARKLEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORTS OF A COMMITTEE

Mr. COPELAND, from the Committee on Commerce, reported favorably the nomination of Leo Otis Colbert, of Massachusetts to be director of the United States Coast and Geodetic Survey for a term of 4 years, vice Raymond S. Patton, deceased.

He also, from the same committee, reported favorably the nominations of sundry officers in the Coast Guard of the United States.

The VICE PRESIDENT. The reports will be placed on the Executive Calendar.

If there be no further reports of committees, the question is on the confirmation of the nomination of Mr. Burlew.

DIPLOMATIC AND FOREIGN SERVICE AND POSTMASTERS

Mr. BARKLEY. Mr. President, there are on the calendar a number of Army nominations and nominations of postmasters. I ask unanimous consent that those nominations be confirmed en bloc.

The VICE PRESIDENT. Without objection, the nominations referred to by the Senator from Kentucky are confirmed en bloc.

EBERT K. BURLEW

The VICE PRESIDENT. The question now is, Will the Senate advise and consent to the nomination of Ebert K. Burlew to be First Assistant Secretary of the Interior?

Mr. BARKLEY. Mr. President, I have conferred with the Senator from Nevada [Mr. PITTMAN] with respect to this nomination, in the hope that we might vote on it today. I have heretofore announced that it is our plan to recess until Tuesday next. The Senator from Nevada is unable to agree to vote today, but, after conferring with him, I am going to ask unanimous consent that at an hour not later than 12 o'clock and 15 minutes p. m., on Tuesday next, in executive session, the Senate shall vote on the question of the confirmation of the nomination of Mr. Burlew to the position to which he has been appointed.

The VICE PRESIDENT. Is there objection to the request of the Senator from Kentucky,

Mr. PITTMAN. Mr. President, I suggest that the time be fixed at the exact hour of 12 o'clock and 15 minutes p. m. so that Senators who desire to be here to vote on the question may know the hour.

Mr. BARKLEY. That is entirely satisfactory, but the usual form is "not later than." However, I ask unanimous consent that the hour of voting on the question of the confirmation of the nomination be fixed precisely at 12 o'clock and 15 minutes p. m. on Tuesday next.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. PITTMAN. Mr. President, on yesterday I discussed what was called the power case as affecting the qualifications of Mr. Burlew. A considerable portion of my remarks consisted of reading evidence that was taken in the courts in the District of Columbia and introduced in the hearings with regard to that matter. I think the evidence which I read into the RECORD yesterday clearly discloses that it was Mr. Burlew who was the "head and front" of the conspiracy to conceal what were called the "undeleted reports," which were the cause of a great deal of controversy in committees and in the Senate.

It is impossible, of course, for Senators, who are busy in committees and with other matters, to give attention to the reading of long quotations from the evidence. I felt it my duty, however, to place that evidence in the CONGRESSIONAL RECORD, so that any Senator who is interested in the matter might have opportunity to read it between now and Monday.

I am now going to take up what is called the Stitely case.

I know that there has been some ridicule of the Stitely case. I think it discloses a deplorable condition, both in the auditing and financial sections of the Park Service and probably in other bureaus of the Interior Department. It seems incomprehensible that over a period of 4½ years a pay clerk could continue to steal money without it being found out.

The investigators of the Interior Department found that there was not an audit of the books of the Park Service for 7 years. They found that there was no attempt whatever to reconcile the vouchers with the pay rolls passing out of the Park Service to the disbursing bureau of the Army. These vouchers were prepared and certified in the Park Service, and then went to the disbursing department of the Army, and the checks were issued by the Army in accordance with the certified pay roll.

Mr. Stitely took up the regular C. C. C. pay rolls, and in addition he had a "fake" pay roll, not dealing with the C. C. C. camps, but dealing with ordinary relief work in the park. They were all properly certified. The disbursing department of the Army paid not only the legal vouchers but the fraudulent vouchers. Under the regulations, the officer of the Department of the Interior who delivered the vouchers to the disbursing officer of the Army received back copies of the vouchers from the disbursing officer, and was supposed to take them back to the auditing department of the Park Service. He received copies of both kinds of vouchers, the legal ones and the fraudulent ones. He took back the legal ones and destroyed the copies of the fraudulent ones. If the Park Service had reconciled the disbursements in this particular park with the pay rolls that they gave to the disbursing officer, they would have instantly discovered that more men were being paid by the disbursing officer than were on the pay-roll vouchers that they had in their department; but they never attempted to reconcile the disbursements at all.

In 1936 the Park Service did ask the disbursing officers for their pay vouchers, and they were sent in; but unfortunately they were never reconciled, even in 1936, when they were sent in. They were there, and if you look at them today you can see exactly what happened—that more men were being paid than the vouchers in the Park Service showed. They had the fraudulent vouchers through the disbursing office, but they were not in the auditor's office. The Park Service even neglected in 1936, when they received the pay vouchers of the disbursing officer of the Army, to reconcile and compare them with their own vouchers.

Never before has such a situation existed; and the investigators of the Interior Department state that it will take six auditors a year to find out how many frauds have been committed in these departments, and what the total loss will amount to.

The investigators said that it is incomprehensible that any department would allow the pay clerk who prepares the pay-roll vouchers to take the vouchers to the disbursing officer and have returned to him by the disbursing officer copies of the vouchers, and also the checks at the same time. This man Stitely was introduced to the disbursing officer, both in writing and verbally, by the proper man of the Department, as the officer of the Park Service who was to deliver the vouchers and collect the checks. I now read the authorization:

FINANCE DEPARTMENT,
FINANCE OFFICE, UNITED STATES ARMY,
Washington, D. C., May 1, 1934.

MEMORANDUM

1. The undersigned has been designated disbursing officer of the Finance Office, United States Army, Washington, D. C., effective this date, vice Maj. W. O. Rawls, Finance Department, relieved.

2. Pay rolls, vouchers, and other money papers showing the name of the disbursing officer should accordingly show the name of the undersigned in lieu of Major Rawls.

3. In the future no checks will be delivered to any individual unless written authorization to do so is on file in this office bearing the signature of the certifying officer or other responsible official. The following form of authorization should be submitted:

I hereby authorize Reno E. Stitely to receive checks from the Finance Office, United States Army, Washington, D. C., for delivery in person to those named on any pay roll or voucher submitted which bears my signature as certifying officer. This authorization to remain in effect until canceled by me.

(Sgd.) J. E. STRAWSER,
Acting Deputy Assistant Director.
E. C. MORTON,
Major, Finance Department.

(Sgd.) RENO E. STITELY,
(Signature of person authorized to receive checks)
OCTOBER 9, 1936.

Consequently, he went up there with these two sets of vouchers, the regular ones and the fake ones, and he received checks for both of them. The fake vouchers he destroyed. The checks for the fake vouchers he deposited in one bank in Washington City until he had deposited $84,000 there over a period of 4½ years.

I know it will be said that Mr. Burlew had nothing to do with this. I am going to show by his classification statement, approved by three Secretaries—first by Dr. Work, then by Dr. Wilbur, and then by Secretary Ickes—that it was Mr. Burlew's especial duty to supervise the operations of these bureaus, to look after their efficiency and the integrity of these men; and he never did his duty in that capacity at all. He neglected it.

Now let me, just for one moment, read a part of the report on the Stitely case. I shall read only a part of it, and then I shall place the rest of it in the RECORD, so that those who desire to read it may do so.

In the first place, let me read the comments, found on page 133 of the hearings.

Mr. BORAH. Mr. President, what is the Senator about to read from?

Mr. PITTMAN. This is the report of the investigators of the Interior Department, Mr. Ickes' own investigators. He had three investigators at work on the matter for 3 months.

COMMENTS

The principal reason these defalcations were permitted to continue for such a long period of time (nearly 5 years) can be attributed to the following:

1. Failure to reconcile accounts payable.

2. Failure of approving officers to examine the monthly statements of costs and expenditures for any improper charges made against their funds.

There were at least two methods which would have disclosed any irregularities, namely:

(a) A reconciliation with the general ledger, which could have been effected by adding to the unencumbered balance the unliquidated encumbrances and unpaid vouchers. (Accounts payable.)

(b) Ascertain that all vouchers were posted to the allotment ledgers.

If the above methods had been followed, there remained but one possibility to pass an illegal voucher, namely: Negligence on the part of the approving officer to examine the monthly statement of costs and expenditures.

HANDWRITING

Dr. Wilmer Souder, handwriting expert for the National Bureau of Standards, has examined 566 Treasury checks bearing Stitely's endorsement and is convinced that 388 of these checks bear the endorsement of the payees in the handwriting of Reno E. Stitely; that 166 other checks have been forged, probably by Stitely, and the remaining 12 cannot be proved definitely to have been forged by Stitely.

Dr. Souder has also examined 97 pay-roll vouchers, of which he states 5 were forged by Stitely. The remaining 92 vouchers bear traced signatures of various approving officers. However, all checks were cashed by Stitely.

CONCLUSION

The submission of numerous fictitious vouchers by Stitely would have been fruitless unless he secured possession of the checks.

It is inconceivable that the National Park Service would authorize any person connected with the voucher unit engaged in the preparation of pay-roll vouchers to receive checks from the disbursing officers for delivery to the persons named on said pay-roll vouchers.

The records in the Washington office of the National Park Service have not been audited in several years. Neither has a proper audit of E. C. W. funds been made, either in the Washington office of the National Park Service or its numerous field stations.

It would require at this time at least six auditors the better part of a year's time to make a proper check of E. C. W. funds paid for the Department of the Interior.

Unless this check is made, it will be impossible to ascertain the number of persons who have taken advantage of the opportunity to unjustly enrich themselves.

It was the E. C. W. account in the Park Service that was looted by Mr. Stitely.

SUGGESTIONS

It is suggested that—

1. The system of authorizing persons engaged in the preparation of vouchers to receive checks from the Treasury Department for delivery to persons named on said vouchers be abolished.

2. Request be made to the chief disbursing officer, Mr. G. F. Allen, to submit separate accounts current covering the following:

(a) Transactions of the National Park Service, Washington office accounts.

(b) Transactions of the National Park Service, field office accounts.

3. The accounts section, National Park Service, be required to prepare and submit monthly a statement of control covering all transactions relative to the accounts maintained in the Washington office.

Under the unanimous agreement, I here insert full report.

The report referred to is as follows:

(United States Department of the Interior, Division of Investigations, Washington)

V

(Region—Division—District)

Date of report, August 5, 1937. Serial number; previous correspondence; nature of report (favorable or adverse); name of special agent (Interior, Oil Enforcement, or P. W. A.). I. D. 1310–A, D. I. 0547–A. Origin: Oral instructions from the Director, Division of Investigations, April 12, 1937.

Period of investigation, April 12, 1937, to July 27, 1937. Robert C. McCarthy and Cecil G. Miles, special agents, Department of the Interior.

BRIEF: ANALYSIS OF THE ACCOUNTING PROCEDURE USED IN THE ACCOUNTS SECTION, NATIONAL PARK SERVICE, TO DETERMINE AND TO ASCERTAIN WHETHER THERE WAS NEGLIGENCE IN THE ADMINISTRATION THEREOF

This investigation is based on the alleged activities of Reno E. Stitely, chief of the voucher unit, National Park Service, Department of the Interior, in connection with the preparation, falsification, and submission of pay-roll vouchers and the conversion to his own use of United States Government checks issued thereon amounting to $84,880.03.

This investigation discloses that—

1. Certifying officers approved vouchers signed by persons whose signatures were not known to said certifying officers.

2. Certifying officers were not furnished pay-roll data, such as memorandums of employment or time slips. This information was retained in the office of the approving officer after he had signed voucher.

3. Voucher was presumed to be authentic when it was initialed by Reno E. Stitely.

4. Clerks engaged in the preparation of pay-roll vouchers were authorized to secure checks from the Treasury Department for delivery to persons named therein.

5. No effective reconciliation of E. C. W. funds paid by the War Department for the Department of the Interior could be made from 1933 to July 1936. War Department officials state that their accounting system could have been arranged to provide almost any information had the Department of the Interior requested it.

6. No reconciliation of accounts payable for the Washington office (National Park Service) has been made since 1933.

7. Approving officers failed to examine monthly statements of costs and expenditures, examination of which would have detected unauthorized vouchers which had been posted.

CECIL G. MILES, *Special Agent.*

RCM:LK,
Special agent, R. C. McCarthy.

Approved: Charles Hurley.

Confidential: Not for public inspection.

Date _____.

Referred to _____ for appropriate action. Please advise Division of Investigations of action taken.

DIRECTOR OF INVESTIGATIONS.

United States Government Printing Office, 16–4946.

BASIS FOR INVESTIGATION

This investigation was predicated on information furnished the Director of the Division of Investigations on April 12, 1937, relative to certain pay-roll vouchers which did not appear to be authentic.

The original and supplemental criminal reports covering the investigation have been submitted (I. D. 1310).

This investigation is made for the purpose of analyzing the accounting procedure used in the accounts section of the National Park Service and to determine the sufficiency of the accounting system employed relative to the prevention of irregularities and frauds against the Government.

HISTORY OF THE CASE

On or about April 1, 1937, a representative from the Chief Disbursing Office of the Treasury Department informed the accounts section that the balance remaining in the appropriation "14–41–44–0699 (4–OW 671.1 old number) Working Fund, Interior, National Park Service (Emergency Relief, Surplus Relief, National Industrial Recovery)" was nearly exhausted, there being less than $300 unexpended; whereas the allotment ledger for this appropriation showed an unexpended balance of about $7,000.

In reconciling the differences, it was found that five pay-roll vouchers totaling $6,855.60 had been passed for payment during the period April to August 1936, and had not been posted to the allotment ledgers. Copies of these vouchers could not be located. Accordingly, a request was sent by the National Park Service to the General Accounting Office for photostats.

Information had reached the Director of the Division of Investigations in connection with this matter, and a request was forwarded to the General Accounting Office for photostats of the missing vouchers and checks applicable thereto.

Under date of April 19, 1937, the photostats were received, which disclosed that 54 checks bore the second endorsement of Reno E. Stitely, chief of the voucher unit, accounts section, National Park Service, and had been cashed at the Washington Loan & Trust Co., west end branch, Washington, D. C.

Investigation of the accounts at the Washington Loan & Trust Co. disclosed that Reno E. Stitely had made numerous large deposits to several savings and checking accounts which he had opened at that bank; that in one or two accounts, as many as six Government checks had been deposited at regular intervals of 2 weeks over a period of several months.

Investigation further disclosed that Reno E. Stitely had deposited in various accounts, over which he exercised control, and in various banks and building associations from 1932 to May 1937, $75,364.37, less $4,370, representing deposits to his accounts indicating bank loans, or a net total of $70,994.37. From 1933 to 1937, Stitely purchased stocks through the Washington Loan & Trust Co. and stocks and commodities through the E. A. Pierce Co. amounting to $258,342.51. Stitely also purchased a new dwelling in May 1935 at a cost of $12,000, paying down the sum of $500, and executed notes totaling $5,000, due as follows: $1,000 payable June 1, 1935; $1,000 payable July 1, 1935; $2,000 payable January 1, 1936; $1,000 payable July 31, 1936.

The remaining $6,500 was represented by a first trust. The $5,500 payments by Stitely were made over a period of 13 months, which was nearly two and one-half times his salary of $2,300 as chief of the voucher unit, accounts section, National Park Service.

Investigation further disclosed that for the past few years Stitely purchased a new automobile each year, and sometimes more frequently. The last automobile which he purchased was a Packard 120 convertible sedan. Stitely spent money very lavishly; as the records at the Ambassador Hotel, Washington, D. C., show, on occasion he spent more than $100 for a wedding anniversary party and $275 for a 4-day drinking party in February 1936 when he had reported to the National Park Service that he was ill.

Stitely, upon learning that photostats of the missing vouchers had been requested by the National Park Service, began at once to liquidate his bank and brokerage accounts and remained away from the office, claiming illness. He was arrested on April 27, 1937, and is under bond of $10,000 awaiting action by the Federal grand jury.

Interrogation of the officials and clerks employed in the National Park Service evinced the same information to the effect that, despite Stitely's lavish spending, no suspicion of him was ever considered; that they believed he had made large profits from speculations in the stock market, or that he had inherited a large amount of money.

Investigation further disclosed that Stitely had falsified a total of 134 pay-roll vouchers, comprising 1,116 checks, totaling $84,880.03, shown as follows:

Appropriation symbol	Period	Number of pay-roll vouchers	Number of checks	Amount
42/3400 National Park Service, 1932–33 (4–420 Great Smoky Mountains National Park).	Sept. 19, 1932, to Feb. 28, 1933.	6	19	$1,013.01
42/3400 National Park Service, 1932–33 (4–440 Colonial Monument and 4–439, George Washington's Birthplace National Monument).	Oct. 1, 1932, to Mar. 31, 1935.	2	3	144.00
4X436 Roads and Trails, National Parks, Gatlinburg, Tenn.	Nov. 16, 1932, to Jan. 31, 1933.	4	17	1,015.98
4X436 Roads and Trails, National Park Service, Washington, D. C.	Feb. 20, 1933, to June 30, 1933.	12	74	5,182.20
F D 570 P1–0110 A8815N (Emergency Conservation Funds).	July 1, 1933, to Mar. 31, 1937.	91	799	57,512.64
4–03/7640.14 N. I. R., Interior, National Parks, 1933–37 (F. P. 672).	Mar. 16, 1936, to Apr. 15, 1936.	3	12	1,274.00
14–44–4629 N. I. R., Interior, National Parks, Roads, and Trails, act June 16, 1933.	July 1, 1936, to Aug. 15, 1936.	2	26	2,467.50
14–1130 Roads and Trails, National Parks, Emergency Construction.	Oct. 16, 1936, to Mar. 15, 1937.	9	112	9,415.10
40W671.1 Working Fund, Interior, National Park Service (Emergency Relief, Surplus Relief, N. I. R.).	Apr. 17, 1936, to Aug. 15, 1936.	5	54	6,855.60
Total		134	1,116	84,880.03

EMERGENCY CONSERVATION FUNDS

It will be noted that the greatest number of falsifications related to the Emergency Conservation Works funds and covered a period of nearly 4 years.

The finance officer for the War Department (Washington district) required a letter from officials in charge of preparing and submitting pay-roll vouchers authorizing any individual to receive checks for delivery in person to those named on any pay roll or voucher which bore the signature of said official as certifying officer. The authorization was to remain in effect until canceled by said certifying officer.

Stitely submitted a letter bearing the traced signature of J. R. Lassiter, superintendent of Shenandoah National Park, to the finance officer, United States Army, Washington, D. C., who was one of the finance officers disbursing E. C. W. funds for the National Park Service. After submitting two pay rolls in July 1933 purporting to be for appointed personnel, Stitely submitted a different set of names beginning with August 15, 1933, also purporting to be for appointed personnel. He continued with these same names every 2 weeks (with the exception of one period, September 1 to September 15, 1933) until March 31, 1937.

Agents interviewed Lt. Col. E. C. Morton, finance officer, United States Army, for the Washington field office, and Mr. Spencer Burroughs, chief clerk under Lieutenant Colonel Morton. Lieutenant Colonel Morton stated that since the authorization submitted by Stitely appeared to be authentic, he felt obliged to pay these vouchers and to deliver the checks to him so long as they appeared to be certified by the proper certifying officer, J. R. Lassiter.

Mr. Burroughs informed agents that although the six camps at Shenandoah National Park sent their pay rolls through the usual channels for payment, he was not suspicious of Stitely when the latter told him that a representative from Shenandoah National Park was coming to Washington every pay day on official business and would take the checks back with him.

Mr. Burroughs further stated that Stitely brought along the original and two copies of said pay-roll vouchers; that upon delivery of said checks, the original was sent to the General Accounting Office, one copy retained for the War Department files, and one copy given back to Stitely for the National Park Service files. Superintendent Lassiter stated that since the fall of 1934 the War Department required him to submit the addresses of all persons on the E. C. W. pay rolls; that since that time all checks were mailed directly to these employees.

The fact that none of these vouchers were ever posted to the E. C. W. allotment ledgers, either at the Washington Office, National Park Service, or at Shenandoah National Park, indicates that Stitely never turned these vouchers over to the bookkeeping unit.

Stitely appeared to have no difficulty in cashing the checks or depositing same to any one of the numerous banking accounts which he had at the Washington Loan & Trust Co.

At this point, it may be appropriate to present a picture of the accounting procedure agreed upon in 1933 between the Army Finance Office and the other departments of the Government handling E. C. W. work. Mr. E. E. Tillett, who was then chief accountant for the National Park Service (now field supervisor, E. C. W. for Territory of Hawaii), represented the Department of the Interior. An agreement was reached whereby the Army Finance Office would allocate the E. C. W. vouchers submitted by the Department of the Interior into the following groups, namely: State Parks, National Parks, General Land Office, Reclamation Service. Later, a further allocation was made of E. C. W. vouchers pertaining to the Virgin Islands, the Territory of Hawaii, and Hawaii National Park. The symbol FD 570 was designated for National Parks and FD 580 for State Parks. The accounts section, National Park Service, found this allocation practically valueless for the reason that the War Department did not show the field station issuing the vouchers.

After 3 years had elapsed, the National Park Service requested the Chief of Finance, War Department, to furnish information showing payments for each field station. Accordingly, beginning with July 1936, the Chief of Finance submitted monthly statements showing payments made by subprocurement authorities.

Example: Acadia National Park was assigned No. 5501P; Crater Lake National Park 5502P, etc., to 5599; State Parks began with 5601–5699, Territory of Hawaii from 5700–5799, Hawaii National Park from 5800–5899, Virgin Islands from 5900–5999, Isle Royal from 6000–6099, Reclamation Service from 6100–6199.

This tabulation showed a procurement code symbol (purpose number), voucher number, date paid, amount paid, and other pertinent information.

Mr. George R. Taylor, assistant chief, office of the Chief of Finance, United States Army, informed agents that his office could have arranged their system in 1933 to provide for this allocation had the National Park Service made such request. Since July 1936, up to the date of this investigation, the tabulations furnished by the office of the Chief of Finance, United States Army, had not been audited by the National Park Service, Washington office, nor by the Field Audit Division, National Park Service. The latter division has several auditors assigned to checking the field stations. However, the vouchers paid by the finance officers of the United States Army were never verified with the National Park Service field-station allotment ledgers.

Stitely wasted no time in taking advantage of the situation, for he began drawing on the E. C. W. funds in July 1933 just as soon as they were available. He could feel reasonably certain to escape detection just so long as the above-mentioned reconciliation was not effected.

VOUCHERS OTHER THAN E. C. W.

The same principle applied to vouchers other than E. C. W., except that Stitely had to secure an authentic certification of a duly authorized certifying officer before he could pass these spurious vouchers for payment. The certifying officer did not obtain signature cards from the approving officers, as he relied on Stitely to determine the correctness and authenticity of the vouchers; consequently, no difficulty was encountered in securing the certification of any voucher, provided it bore the initials of Reno E. Stitely.

Prior to 1934, when the National Park Service was disbursing its own funds, the disbursing officer, R. L. Lassly, acting chief disbursing clerk, relied on the approval of R. M. Holmes, chief clerk, National Park Service, before paying a voucher. Mr. Holmes, in a great many instances, did not know the signature of the person signing the voucher, but relied on its authenticity and correctness because it was initialed by Reno E. Stitely.

In the files which Mr. Oliver G. Taylor submitted to agents, there was found a copy of a pay roll for the period June 1, 1933, to June 30, 1933, appropriation 4X436, Roads and Trails, National Parks, bearing the name of Patrick W. Ickes, employed as a senior laborer. The amount paid Ickes was $17. The pay roll which was passed through for payment had the same name and amount on the first line. However, seven names were added thereto. The paid voucher amounted to $724, less economy deductions of $108.60, or a net total of $615.40. The latter amount was posted to the allotment ledgers and a monthly statement furnished Mr. Taylor. Had this monthly statement of costs and expenditures been checked by Mr. Taylor, the error would have been located. The same sort of error could have been found as early as November 1932, when a copy of pay-roll voucher on file in Mr. Taylor's office for the period October 1 to October 15, 1932, showed the amount of $47.67, whereas the voucher paid amounted to $99.

With respect to the June 1933 voucher, referred to above, Mr. Taylor stated in a memorandum, which is incorporated in the supplemental criminal report (exhibit 3), that the signature thereon appears to be his genuine signature; that he never signed any pay roll carrying any of the names appearing on it except that of Patrick W. Ickes.

Since Mr. Taylor does not claim that his name was forged to this voucher and since the amount of the paid voucher does not agree with the copy in his files, it appears reasonable to presume that Mr. Taylor signed the original voucher before the amounts were inserted thereon.

ACCOUNTING PROCEDURE (WASHINGTON OFFICE)

Submitted herewith is a memorandum from Mr. Perry D. Edwards, acting chief of the accounts section, National Park Service, dated May 13, 1937, which describes the accounting system in use in the accounts section of the National Park Service, Washington office. On page 2, paragraph 2, of this memorandum, the statement is made that the accounts payable have not been reconciled since June 1933, and the field allotment ledgers have not been audited for 4 or 5 months. Furthermore, the control accounts have not been posted since December 1936., nor has a statement of balances been prepared since December 1936.

The procedure for "checking out" is set forth in detail by Mr. F. W. Watson, chief, audit division, accounts section, National Park Service, in memorandums dated May 20 and May 28, 1937—exhibits B and B–1, respectively.

Both Mr. Watson and Mr. Edwards believe that after the paid schedules of disbursements were returned by the chief disbursing officer and were checked against the daily summaries of disbursements, Stitely withdrew the vouchers and the paid schedules before they could be checked against the allotment ledgers to ascertain if properly posted. Both of these officials admit that the work has been far in arrears for the past several years. The checking out does not appear to have been done systematically. If the clerks had caught up with the current work, they would have spent a little time on the work in arrears. It is the opinion of agents that the clerks assigned to this work did not make a complete audit; otherwise, some of these spurious vouchers would have been detected.

COMMENTS

The principal reason these defalcations were permitted to continue for such a long period of time (nearly 5 years) can be attributed to the following:

1. Failure to reconcile accounts payable.

2. Failure of approving officers to examine the monthly statements of costs and expenditures for any improper charges made against their funds.

There were at least two methods which would have disclosed any irregularities, namely:

(a) A reconciliation with the general ledger, which could have been effected by adding to the unencumbered balance the unliquidated encumbrances and unpaid vouchers. (Accounts payable.)

(b) Ascertain that all vouchers were posted to the allotment ledgers.

If the above methods had been followed, there remained but one possibility to pass an illegal voucher, namely: Negligence on the part of the approving officer to examine the monthly statement of costs and expenditures.

HANDWRITING

Dr. Wilmer Souder, handwriting expert for the National Bureau of Standards, has examined 566 Treasury checks bearing Stitely's endorsement and is convinced that 388 of these checks bear the endorsement of the payees in the handwriting of Reno E. Stitely; that 166 other checks have been forged, probably by Stitely, and the remaining 12 cannot be proved definitely to have been forged by Stitely.

Dr. Souder has also examined 97 pay-roll vouchers of which he states 5 were forged by Stitely. The remaining 92 vouchers bear traced signatures of various approving officers. However, all checks were cashed by Stitely.

CONCLUSION

The submission of numerous fictitious vouchers by Stitely would have been fruitless unless he secured possession of the checks.

It is inconceivable that the National Park Service would authorize any person connected with the voucher unit engaged in the preparation of pay-roll vouchers to receive checks from the disbursing officers for delivery to the persons named on said pay-roll vouchers.

The records in the Washington office of the National Park Service have not been audited in several years. Neither has a proper audit of E. C. W. funds been made, either in the Washington office of the National Park Service or its numerous field stations.

It would require at this time at least six auditors the better part of a year's time to make a proper check of E. C. W. funds paid for the Department of the Interior.

Unless this check is made, it will be impossible to ascertain the number of persons who have taken advantage of the opportunity to unjustly enrich themselves.

SUGGESTIONS

It is suggested that—

1. The system of authorizing persons engaged in the preparation of vouchers to receive checks from the Treasury Department for delivery to persons named on said vouchers be abolished.

2. Request be made to the chief disbursing officer, Mr. G. F. Allen, to submit separate accounts current covering the following:

(a) Transactions of the National Park Service, Washington office accounts.

(b) Transactions of the National Park Service field office accounts.

3. The Accounts Section, National Park Service, be required to prepare and submit monthly a statement of control covering all transactions relative to the accounts maintained in the Washington office.

Mr. PITTMAN. I now read from page 261 of the hearings:

Senator PITTMAN. Let me call attention to the testimony of the Inspector General of the Army, General Reed. He stated that the way that Stitely was exposed was through the fact that he had for years brought up two pay rolls, the long pay roll and the short pay roll, and that when he did not bring them up on one occasion, being sick, or for some other reason, another messenger brought up the long pay roll, and the young lady who generally delivered the checks asked where the short pay roll was, and this messenger brought the news back, and there was no short pay roll. So that testimony would indicate, at least, that the practice of the Disbursing Department of the Army was to receive all the time these two vouchers and to deliver copies of these vouchers, together with checks, to Stitely.

Mr. EDWARDS. That is correct, I believe, Senator. When Mr. Stitely failed to take this fictitious pay roll down it was for the reason that the fictitious pay rolls had been uncovered and he reported sick and, of course, never returned to the office.

Mr. President, that condition is deplorable. As is stated by these investigators, it is inconceivable. Mr. Burlew testified that they have now changed that system, and he is very proud of having changed it. However, during a period of practically 5 years it was permitted to exist.

Now let us see whether or not Mr. Burlew is responsible in this matter. I know it is constantly stated that this thing is all terrible, that Mr. Burlew is not responsible. I want to see whether he is not responsible.

Every time there is a reclassification of anyone in the civil service, as Mr. Burlew is and has been for a long time, the head of his department must certify to the Civil Service Classification Board what his duties and obligations are so that they may fix the class in which he will fall, and thereby fix his salary. Let us see what Mr. Ickes said Mr. Burlew's duties were. I shall place in the RECORD, of course, this whole classification report, but I desire to read from the statement of the duties laid down by Secretary Ickes as to Mr. Burlew. This is what he says:

As administrative assistant to execute such special assignments as may be directed by the Secretary, requiring organization ability, discretion, and administrative judgment; to give attention to business methods of bureaus and institutions to bring about uniformity of practice and simplified procedure; to exercise general supervision of the work and personnel of the divisions and other units of the Secretary's office; to handle administratively matters of personnel, housing, etc., involved in the reorganization by transfer and consolidation of activities in the Interior Department by recent Executive order, which has materially increased the scope of the Department's functions. The work requires an intimate knowledge of the organization, activities, and business of the bureaus, institutions, and offices of the Interior Department, and familiarity with policies laid down by the Secretary.

Designated by the Secretary of the Interior in connection with his office as Federal Administrator of Public Works to act as personnel director of that organization, to have supervision over the selection of employees, to interview applicants sent to the Secretary, and to be the contact officer with Senators and Congressmen and others interested; to coordinate business between the Public Works Administration and the Administrator's office; to give attention to new organization; to review correspondence prepared in the Public Works office for the Administrator's signature; and to perform such other administrative duties in connection with the carrying out of the public-works program as the Administrator may direct. Also designated to represent the Department in the efforts to standardize personnel and wages in the emergencies agencies.

As budget officer of the Department, to have responsibility for the proper preparation and presentation of estimates of appropriations and justifications therefor covering the office of the Secretary and all bureaus and institutions under the Department of the Interior; to explain and defend estimates at hearings before the Bureau of the Budget and congressional committees; approve waivers of apportionment; and review legislation affecting the Department.

If that does not include the broadest duties that could be imposed upon a man with regard to the Park Service and other bureaus, I cannot understand the English language. It was his duty to look after the organization of the Park Service, to look after the efficiency of its bureaus, to look after the integrity and capability of its personnel.

I shall not read any more of this. Practically the same designation was made by Dr. Work when he was Secretary of the Interior and practically the same designation of duties and responsibilities was made by Dr. Wilbur with regard to Mr. Burlew. But I will place this whole matter in the RECORD.

The statement referred to is as follows:

P. C. No. CAF 16–9.
Bureau Sheet No. 199.
P. C. B. Sheet No.____

Personnel Classification Board classification sheet

	Classification grade					Check to indicate whether sheet is for—		Give following information for item checked
	Symbol				Initials			
	Service	Grade	Class	Task				
Recommended by Bureau						New appointment		
Allocation by head of Department	CAF	15	2		H. L. L.	Change in duties	x	(Name and P. C. B. No. of former incumbent) New position, in lieu of one in CAF–14. (Name and P. C. B. No. of person formerly performing duties.)
Do not use this space	CAF	15	2		Comm'n I. B.	Other change		Enlargement of scope of duties. (Explain reason for submission of sheet.)

1. Name: Burlew, Ebert K.
2. P. C. B. No. of last sheet for this employee: CAF 14–6.
3. Department: Interior.
4. Bureau: Office of the Secretary.
5. Division: Secretary's immediate office.
6. Section or unit_____.
7. Present annual salary rate: $7,000.
8. Allowances in addition to base salary_____.
(Character and value)
9. Title of position: Administrative Assistant and Budget Officer.
(Customary office title)

10. Description of work: (Describe work performed, in your own words, giving all pertinent facts and approximate percent of time spent on each major operation, but confine description to space provided. Do not copy the act or class specifications.)

As administrative assistant to execute such special assignments as may be directed by the Secretary, requiring organization ability, discretion, and administrative judgment; to give attention to business methods of bureaus and institutions to bring about uniformity of practice and simplified procedure; to exercise general supervision of the work and personnel of the divisions and other units of the Secretary's office; to handle administratively matters of personnel, housing, etc., involved in the reorganization by transfer and consolidation of activities in the Interior Department by recent Executive order, which has materially increased the scope of the Department's functions. The work requires an intimate knowledge of the organization, activities, and business of the bureaus, institutions, and offices of the Interior Department, and familiarity with policies laid down by the Secretary.

Designated by the Secretary of the Interior in connection with his office as Federal Administrator of Public Works to act as personnel director of that organization, to have supervision over the selection of employees, to interview applicants sent to the Secretary, and to be the contact officer with Senators and Congressmen and others interested; to coordinate business between the Public Works Administration and the Administrator's office; to give attention to new organization; to review correspondence prepared in the Public Works office for the Administrator's signature; and to perform such other administrative duties in connection with the carrying out of the public-works program as the Administrator may direct. Also designated to represent the Department in the efforts to standardize personnel and wages in the emergencies agencies.

As Budget officer of the Department, to have responsibility for the proper preparation and presentation of estimates of appropriations and justifications therefor covering the office of the Secretary and all bureaus and institutions under the Department of the Interior; to explain and defend estimates at hearings before the Bureau of the Budget and congressional committees; approve waivers of apportionment; and review legislation affecting the Department.

11. Give actual qualifications of incumbent: (Education, training, experience, etc.).

EDUCATIONAL TRAINING

[This information required only for positions in the professional and subprofessional services and for those positions in the CAF service allocated to grades 4 to 14, inclusive.]
Indicate by an "X" the highest grade or year.

	1	2	3	4	5	6	7	8
Elementary school	☐	☐	☐	☐	☐	☐	☐	☒
	1	2	3	4				
High school	☐	☐	☐	☒				
	1	2	3	4				
College	☐	☐	☒	☐				

Name: Washington College of Law, LL. B.
Technical or post graduate: Kind and extent_____

EXPERIENCE AND OTHER SPECIAL QUALIFICATIONS

Pennsylvania Railroad Co. 3 years (offices of trainmaster at Sunbury and Williamsport, Pa., and General Manager Atterbury, Philadelphia). A. N. Chandler & Co. (investment bankers), Philadelphia and New York offices, 1 year. Baldwin detectives, Philadelphia and Roanoke, Va., 2 years. Secretary to president, Grit Publishing Co., Williamsport, Pa., 1½ years. P. F. Collier & Sons, Philadelphia. Office of Adjutant General, War Department, 3 years. Post Office Department, 10 years; 5 years as secretary to Third Assistant Postmaster General Dockery, 1 year confidential clerk to Postmaster General Work. Interior Department since 1923 as administrative assistant. Member district of Columbia bar and admitted to practice before United States Supreme Court.

12. Does employee work under immediate or general supervision, or to a large extent upon own responsibility?_____
(Describe fully, setting forth to what extent his work is reviewed, etc.)

To large extent on own responsibility.

13. Does employee supervise work of others? Yes.

If so, give number of employees in each grade: 8 directly; others indirectly; 1, CAF–11; 1, CAF–10; 3, CAF–4; 1, CAF–3; 2, CAF–2.

(Stamped): Department of the Interior. Received August 18, 1933. Supervisor of Classification.

14. Date when employee entered upon duties described above____

HAROLD L. ICKES, *Secretary of the Interior.*
Date, August 17, 1933.

(Signature of reviewing officer.)
Date, August 30, 1933.

For the position described the Personnel Classification Board has approved the following allocation: Service: CAF; grade, 15; reference symbol _____.

(Stamped): Department of the Interior. Received August 30, 1933. Supervisor of Classification.

ISMAR BARUCH,
Chief, Personnel Classification Division.

Mr. PITTMAN. I also insert full classification report made by Secretary Wilbur.

The report referred to is as follows:

[Received May 28, 1930. Personnel Classification Board]

P. C. B. No. CAF15, 4
Bureau Sheet No____
P. C. B. Sheet No____

Personnel Classification Board classification sheet

	Classification grade					Check to indicate whether sheet is for—		Give following information for item checked
	Symbol				Initials			
	Service	Grade	Class	Task				
Recommended by Bureau						New appointment		
Allocation by head of Department	CAF	15	2		W	Change in duties	x	(Name and P. C. B. No. of former incumbent.) Additional duties and responsibilities. (Name and P. C. B. No. of person formerly performing duties.)
Do not use this space	CAF	15			Board	Other change		(Explain reason for submission of sheet.)

1. Name: Burlew, Ebert K.
2. P. C. B. No. of last sheet for this employee: CAF 14–4.
3. Department: Interior.
4. Bureau: Secretary's Office.
5. Division_____
6. Section or unit_____
7. Present annual salary rate, $7,500.
8. Allowances in addition to base salary_____
(Character and value)
9. Title of position: Administrative Assistant to the Secretary and Budget Officer. (Customary office title.)
10. Description of work: (Describe work performed, in your own words, giving all pertinent facts and approximate percent of time spent on each major operation, but confine description to space provided. Do not copy the act or class specifications.)

As budget officer of the Department, to have responsibility for the proper preparation and presentation of all regular, supplemental, and deficiency estimates of appropriations and justifications therefor covering the office of the Secretary and all bureaus and institutions under the Interior Department; issue instructions to and confer and advise with heads of bureaus and institutions in relation to estimates and budget matters of every nature; consider estimates submitted with reference to questions of policy, character, and scope of activities, required appropriations and legislative authority; coordinate estimates as between bureaus; make or direct revisions of amounts and language of specific items and general text; explain and defend estimates at hearings before the Bureau of the Budget and congressional committees; confer and advise with administrative officials regarding new and amended legislation, additional funds required, etc.; contact offi-

cials of the Bureau of the Budget, Senators, Congressmen, and members of congressional committees on matters relating to appropriations and other legislative needs of the Department; approves waivers of apportionment; reviews all legislation affecting the Department.

As administrative assistant, to examine or supervise the examination of all matters requiring the Secretary's consideration and action; initiate procedure affecting all branches of the Department; confer and advise with Department and bureau officials and the public on affairs of the Department of every character, including many major problems; give attention to business methods of bureaus and institutions to bring about uniformity of practice and simplified procedure; give final review to correspondence, documents, and other papers submitted for the Secretary's signature; advise with the Secretary and Assistant Secretaries on matters of administrative policy and execute special assignments requiring organization ability, discretion, and administrative judgment; exercise general supervision of the work and personnel of the several divisions and other units of the Secretary's office. The work requires an intimate knowledge of the organization, activities, and business of all bureaus, institutions, and offices of the Interior Department, and thorough familiarity with the policies of the Secretary.

11. Give actual qualifications of incumbent: (Education, training, experience, etc.)

EDUCATIONAL TRAINING

This information required only for positions in the professional and subprofessional services and for those positions in the CAF service allocated to grades 4 to 14, inclusive.

Indicate by an "X" the highest grade or year.

	1	2	3	4	5	6	7	8	
Elementary school	☐	☐	☐	☐	☐	☐	☐	☒	
	1	2	3	4					
High school	☐	☐	☐	☒					
	1	2	3	4					
College	☐	☐	☒	☐					Name_____

Washington College of Law, LL. B. Technical or post graduate: Kind and extent_____

EXPERIENCE AND OTHER SPECIAL QUALIFICATIONS

Pennsylvania Railroad Co., 3 years (offices of trainmaster at Sunbury and Williamsport, Pa., and General Manager Atterbury, Philadelphia). A. N. Chandler & Co. (investment bankers), Philadelphia and New York offices, 1 year. Baldwin detectives, Philadelphia and Roanoke, Va., 2 years; secretary to president, Grit Publishing Co., Williamsport, Pa., 1½ years. P. F. Collier & Sons, Philadelphia. Office of Adjutant General, War Department, 3 years. Post Office Department, 10 years; 5 as secretary to Third Assistant Postmaster General Dockery; 1 year confidential clerk to Postmaster General Hays; and 1 year private secretary to Postmaster General Work. Member of District of Columbia bar and admitted to practice before the United States Supreme Court. In present position since March 1923.

1. Does employee work under immediate or general supervision, or to a large extent upon own responsibility?_____

(Describe fully, setting forth to what extent his work is reviewed, etc.)

On his own responsibility.

13. Does employee supervise work of others? Yes.

If so, give number of employees in each grade.

1 CAF 12	1 Cu–4
3 CAF 11	1 Cu–3
1 CAF 10	
1 CAF 7	
1 CAF 5	
2 CAF 3	

14. Date when employee entered upon duties described above. March 14, 1929.

RAY LYMAN WILBUR, *Secretary.*
(Signature of preparing officer)
JUNE 20, 1930.
(Signature of reviewing officer)

For the position described the Personnel Classification Board has approved the following allocation:
Service, CAF; grade, 15; reference symbol, _____.

PAUL N. PECK,
Secretary of the Board.

Mr. PITTMAN. Let me read now what is stated in this classification notice as to Mr. Burlew's experience:

EXPERIENCE AND OTHER SPECIAL QUALIFICATIONS

Pennsylvania Railroad Co., 3 years. (Offices of trainmaster at Sunbury and Williamsport, Pa., and General Manager Atterbury, Philadelphia.) A. N. Chandler & Co. (investment bankers) Philadelphia and New York offices, 1 year. Baldwin detectives, Philadelphia and Roanoke, Va., 2 years; secretary to president, Grit Publishing Co., Williamsport, Pa., 1½ years. P. F. Collier & Sons, Philadelphia. Office of Adjutant General, War Department, 3 years. Post Office Department, 10 years; 5 as secretary to Third Assistant Postmaster General Dockery; 1 year confidential clerk to Postmaster General Hays; and 1 year private secretary to Postmaster General Work. Member of District of Columbia bar and admitted to practice before the United States Supreme Court.

That is signed by Harold L. Ickes, and is dated August 17, 1933. As I have said, a similar report was made by Dr. Work when he was Secretary of the Interior with regard to Mr. Burlew, and a similar statement was made by Dr. Wilbur when he was Secretary, plainly showing that Mr. Burlew's duties were to protect the Park Service, the E. C. W. funds, and other Government funds there against loss through negligence, inefficiency, or dishonesty. There is no one else in the Department upon whom that duty is imposed. It is imposed only on Burlew. Yet his friends will say, "That was the Secretary's fault. The Secretary had transferred that work to him." It had been transferred to him by three Secretaries, and he knew those were his duties, and of course when his carelessness and negligence were called to his attention by the thievery in the Department, he proceeded then to make regulations in the Department which he says will now make it impossible for that kind of thievery to take place again. I say that during all the period he has been in the service in the Interior Department from 1923 he has neglected his duties all the time.

The same thing will be found with regard to an embezzlement in the Yellowstone National Park in 1935. A man named Watson was pay clerk out there. According to the testimony of Mr. Burlew, which I have here, Mr. Watson received all cash taken in and received all checks, and deposited the cash and deposited the checks. A check for $795.88 was taken in from a contractor, and it was deposited by Mr. Watson. It is shown to have been deposited by Mr. Watson, because his handwriting is on the deposit slip. I will, perhaps, read it. If not, I will put it in the RECORD. So he deposited the check at the same time he deposited cash; a great deal of cash comes in at the gates and entrances of that park. But no entry was made of that check on the books.

Later on, when they went to the contractor for this money, he showed the check which had been paid. Therefore there was only one way to make the books balance, and that was, according to the testimony of the auditors and investigators, through someone taking out of the cash the exact amount of the check, $795.88. That was the Watson matter.

This same fellow Watson turned up here, and for 6 weeks he was certifying officer, certifying these bogus pay rolls of Stitely. Watson's signature as certifying officer was not forged. Other signatures were forged, but not Watson's. He as the certifying officer of the Park Service certified to those fake pay rolls.

The following occurred when I was questioning Mr. Miles, special agent of the Department of the Interior:

Senator PITTMAN. Take the signature "F. W. Watson, Acting Chief Accountant." That is not a forgery, is it?

Mr. MILES. No, sir; that is authentic.

Here was this same man Watson who had this shortage in his accounts out there, who became certifying officer, and was certifying officer for 6 weeks at least during the time of the embezzlement by Stitely.

Watson was authorized to "certify all classes of National Park Service vouchers," with the approval of Mr. Burlew, as will be shown by the following quotation from page 230 of the hearings:

Senator PITTMAN. It is initialed by the First Assistant Secretary, by Mr. Slattery, and by you?

Mr. BURLEW. Yes. You will notice there that it was not considered an appointment matter. It did not go through the regular appointment division, like status changes or appointments do. It is just a designation.

The CHAIRMAN. That is, if a man is in the service and is assigned to some duty, then you arrange for his personnel status?

Mr. BURLEW. That is right. You understand, we knew nothing against this man. We did not know anything about the Stitely case. That procedure is the most common procedure we have.

Senator PITTMAN. This memorandum is headed "Department of the Interior, National Park Service, Washington, January 27, 1936," and reads as follows [reading]:

"Memorandum for the Secretary.

"Pursuant to the provisions of section 4 of Executive Order No. 6166, of June 10, 1933, it is recommended that Mr. F. W. Watson,

Acting Chief, Accounts Division, National Park Service, be authorized to certify all classes of National Park Service vouchers for payment by the Chief Disbursing Officer, Division of Disbursement, Treasury Department.

"(Sgd.) A. E. DEMAREY,
"Acting Director.

"In duplicate—Approved: February 1, 1936.

"(Sgd.) HAROLD L. ICKES,
"Secretary of the Interior."

It is initialed by Walters——

Mr. BURLEW (interposing). Burlew and Slattery.

Senator PITTMAN. There is another marking on here, also, which I ought to read [reading]:

"Department of the Interior. Received January 28, 1936.

"Secretary's office, mail and files."

So that you did know on January 28, 1936, when you initialed and approved the appointment of the certifying officer, that he was appointed?

Mr. BURLEW. Yes, sir—designated as certifying officer. That is not an appointment.

Senator PITTMAN. It speaks for itself.

Mr. BURLEW. That is January 1936?

Senator PITTMAN. Yes. I thought a while ago you did not know anything about his being appointed.

Mr. BURLEW. Oh, no, Senator. I did not know about his being brought here, or, rather, assigned to duty in Washington without our knowledge.

It is contended that there was nothing known with regard to the shortage in the Yellowstone National Park at that particular time, and perhaps that is true; but as personnel officer in charge of all the personnel in that department Burlew should have known something about Watson. Furthermore, he should have known something about Stitely.

The following occurred during my examination of one of the investigators of the Department of the Interior who investigated the Stitely case:

Senator PITTMAN. You did not investigate the habits of this man, did you?

Mr. MCCARTHY. As much as we could. We found out that he threw parties in various hotels here, some costing $275; another one, a wedding anniversary, had cost over $100.

The CHAIRMAN. You don't think that $100 dinners are extravagant, do you?

Mr. MCCARTHY. It all depends on whether it is food or liquor. He had his car shipped down to Florida and back by train.

Senator PITTMAN. What time was that?

Mr. MCCARTHY. About February, a year ago.

Senator PITTMAN. When did he commence his extravagant life?

Mr. MCCARTHY. I would say, from his reputation, he had always had it.

Senator PITTMAN. What did you say his salary was?

Mr. MCCARTHY. Twenty-three hundred dollars.

Senator PITTMAN. Did you find out whether or not he had any means on the outside?

Mr. MCCARTHY. He did not.

Senator PITTMAN. He did not have?

Mr. MCCARTHY. No, sir.

Senator PITTMAN. Does it occur to you as an investigator that a $2,300 clerk who was living that kind of a life would be worth investigating?

Mr. MCCARTHY. It would.

Senator PITTMAN. You would investigate if you were in the investigating department, would you?

Mr. MCCARTHY. I would.

I have already presented evidence to show that there is no one in the Interior Department but Mr. Burlew who is authorized to have supervision over the divisions and bureaus in the Interior Department. It is set forth in his classification statement, signed by the Secretary, that these bureaus and divisions are put under Mr. Burlew's supervision for the purpose of bringing about better systems of management, arriving at greater efficiency, and seeing to the integrity of the personnel. I have read that into the RECORD. A similar statement was made by Dr. Work, and a similar statement was made by Dr. Wilbur. If Burlew is not responsible for the efficiency of these bureaus and for the integrity of their personnel, then no one is responsible.

I call the Senate's attention to the fact that Mr. Burlew has been the personnel officer of the Department of the Interior under three Secretaries. He is the man who controls the disciplinary measures that are taken. He is the one who in the first place investigates the recommendations that are made. At one time there were 600 detectives in the Interior Department under Mr. Glavis. It would certainly seem that 600 detectives could discover the extravagances of a $2,300 clerk who from the beginning of his service in the Department was notorious for his extravagant expenditures.

Burlew stopped Glavis from investigating Department personnel without order from the Secretary—I read, page 18:

Mr. BURLEW. Yes. That is all he investigated, within the Department; the contractors who dealt with the Department, or people of that sort. I mean the Public Works.

Senator MCCARRAN. He went into the field, however?

Mr. BURLEW. Yes; and he had full authority to make investigations in the field except personnel investigations. There were cases which he would investigate and reinvestigate. At one time I told the Secretary that if he were to continue that method I did not want to stay in the Department; and then the Secretary issued an order which required him to get his approval before he could make a personnel investigation of any officer or employee of the Department.

Mr. Burlew says that the chief clerk of the department is responsible for investigating such a matter. That may be true, but does not the responsibility rest on Mr. Burlew even though he has a deputy personnel officer?

Here is a man who for 4½ years—nearly 5 years—carried on a systematic embezzlement. Over that period of time he deposited Government checks in one bank in Washington to the amount of $84,000. Any investigating officer could discover that situation. But Mr. Burlew saw nothing of it.

Mr. President, the condition in the Department is indeed deplorable, when Secretary Ickes' own employed investigators report to him in confidence such things as I have just read to the Senate, stating that it will take at least six auditors a year to find out how much has been embezzled from the Government.

That is not the whole situation, Mr. President, Mr. Burlew was not only put in charge of these bureaus and responsible for their efficiency, he was not only the personnel officer, but he was the Budget officer. Under the rules of the Department, when the Budget is being prepared for the Department of the Interior, every one of the bureaus estimates how much it will need for the ensuing year, and then those estimates are all brought to the Budget officer of the Interior Department, who is Mr. Burlew, and he looks over the estimates to see what the total will be, and to see whether one bureau is trying to get too much and the other bureau will not get enough. After he has gone through all these estimates in detail he presents them to the Secretary for his approval, and then the Secretary—this is Mr. Burlew's testimony—present them to the Director of the Budget.

Under the duties laid down by the Department, Mr. Burlew is required to go before the Director of the Budget for the purpose of sustaining those estimates, if possible. Not only that, but the regulations governing the Department require the Budget officer to determine if any unexpended money is left in any particular account in any bureau, and if so, how much.

I say to the Senate that it is physically impossible for a Budget officer to carry out those rules and not discover that the money allocated to the Park Service was $84,000 short. I say that is impossible. The evidence discloses that they have never attempted to find out what the balance was in any of these accounts that were allocated. Yet under the certification to the Classification Board of the Civil Service three secretaries have certified that it was Mr. Burlew's duty to do that.

This whole matter is treated very cavalierly. It is considered that it is a very sad affair that the Government should be robbed of $84,000, and that the Department should not have a knowledge of how much it has been robbed of. It is considered to be very unfortunate, but that Mr. Burlew had nothing to do with it. Why, no; Mr. Burlew is just the secretary to the Secretary of the Interior.

Mr. President, I cannot say that I have any great admiration for the executive ability of the Secretary of the Interior, but nevertheless I think it would be very unjust to him to say that he is responsible for the inefficiency in the Department, when he has certified over his signature to the Civil Service Commission that it is Mr. Burlew's duty to have knowledge of the things I have referred to.

I do not think that the Secretary of the Interior is responsible for allowing a little petty crook to stay in that Department for 4½ years, when it is Mr. Burlew's duty, as personnel officer, to supervise the personnel. I cannot attack the Secretary on that ground. He is not entitled to an attack on that ground.

When the Secretary testified before the Committee on Public Lands and Surveys I really felt sorry for him. I wish to read a portion of his testimony. His testimony showed me that the man did not have time to do very much work in the Department.

A bill was sent to the Committee on Public Lands and Surveys providing for allowing Mr. Burlew to sign anything that he, Ickes, was authorized by law to sign. Anything the Secretary was allowed to sign, such as patents and conveyances, Burlew was to sign, under the provisions of that bill. Even the friendly members of the Committee on Public Lands and Surveys could not go that far. They thought there ought to be some responsible man to sign patents and matters of that kind, so they did not approve that bill. We took up that matter in the committee to find out why the Secretary wanted to give such an enormous authority to Mr. Burlew. In other words, the bill provided for giving to his secretary the final authority held by the Secretary of the Interior himself. The Secretary would not have to do anything after that bill was passed. I will read from Secretary Ickes' testimony:

Senator PITTMAN. Mr. Secretary, what I am about to say may be a little out of the record here, but we have this bill before us. Do you not think that that involves an extraordinary power to grant to an assistant to the Secretary?

Secretary ICKES. It depends upon the assistant. May I give a little background here?

Senator PITTMAN. Certainly.

Secretary ICKES. I came to Washington expecting to be Secretary of the Interior. Then the following June I was made Administrator of Public Works. Shortly thereafter I was made Oil Administrator. I do not think that any heavier responsibilities had ever been placed upon a Cabinet officer. I was very anxious to make good, not only on my own account, but I realized that mismanagement, especially of public works, graft, and corruption might even ruin the administration. I had very broad powers for at least the first 3 years. Now, remember, Public Works is distinct from Interior. Nobody in Interior could sign anything for Public Works. I got to the office at 8 o'clock every morning. I did not stop for lunch—in fact, I did not eat lunch—I worked through until dinnertime, and went home for an hour. I went back to the office and stayed until half past 10 or 11 every night. I worked every Sunday and every holiday, Christmas included. I signed all of the Public Works contracts myself. I must have signed, at first, at least 5,000, each one in triplicate. My desk used to be piled so high with stuff for signature that it was appalling. I was working beyond human endurance. And now the question is asked whether, in order to ease that burden, I am not reposing too much confidence in someone. After all, as between someone of my own selection, with whom I had worked for 5 years and in whom I had confidence and trust, and somebody who was handed to me that I never heard of, I think I would do just like any Senator on this committee: I would take the man I had tried out and in whom I had trust and confidence.

So when the Secretary went into office he certified to the Civil Service Commission that which I have read to the Senate, particularly giving Mr. Burlew exclusive supervision over all the bureaus in his department, enjoining him to look to their organization, to see if he could improve it if possible, and to see to the efficiency of the systems adopted by the bureaus and the integrity of the personnel.

Not another officer in the Interior Department has such authority and jurisdiction. The Secretary, of course, with the great burden placed upon him, as he testified, did not have time to look after his administrative duties, and Burlew fell down on the job.

I have read to you only a part of the report made by the confidential investigators of Mr. Ickes; but it is sufficient to show that in the National Park Service there was a total disregard of the money of the people of the country. There was no effort to keep an accounting of it. I am taking the language in the official report made by Secretary Ickes' confidential investigators. That report was not made public. It was dragged out of the Department. I doubt very much whether Mr. Burlew would ever have allowed that report to come to the light of day, any more than he would have allowed the undeleted report with regard to the Power Commission to come to the light of day, if he could have prevented it.

Let me read from the report in the Watson case. I have read part of the report. The report of the investigating committee will be published in the RECORD in full. Mr. Watson was the man who was certifying officer for 6 weeks, and whose signature was not forged, but who certified the false and forged certificates gotten out by Stitely.

The report on Watson is very short. In my opinion, the case should have been referred to the Department of Justice for prosecution, instead of the man being protected. Even after the report of Watson's conduct came out, he was not removed from the Park Service. Oh, no! He was taken away as certifying officer, because that was too dangerous a place for a crook. He was moved next door, in the auditing department, so that he could slip up to the other office at any future time.

Watson was the man who signed some of these things. When Mr. Burlew was bragging about causing Watson to be demoted after he had certified the bogus pay rolls for 6 weeks, I asked if it was not true that what Burlew did was to remove Watson from a dangerous place and put him in a less dangerous place. Burlew said, "That is exactly it."

It will be found that that was exactly the situation with respect to the two crooks in the "hot oil" case. Burlew made it impossible for the man who discovered the frauds to stay in the service, because it was proposed that he be transferred out into the Wyoming desert, or somewhere else. I do not mind the desert; but this man was a southern man, and he preferred to live in the South with his wife and family. He was offered a job out in the desert after he had discovered the frauds; but the two crooks were whitewashed. Guillory pleaded guilty. After that, it was rather difficult to keep the man who had discovered the frauds in Washington or in Texas any longer, so they offered him a job out in Wyoming.

Let me read from the report on Watson:

APPARENT SHORTAGE OF $795.88 IN THE YELLOWSTONE NATIONAL PARK ACCOUNTS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Frank B. Anderson, contractor for the erection of the apartment house in Yellowstone National Park, received crushed rock from the park during May and June 1935. Reimbursement was to be made on the basis of the actual cost of crushing the rock. On June 21, 1935, C. A. Lord, park engineer, prepared a memorandum to B. A. Hundley, chief clerk, which showed the cost of crushing the rock for Anderson to be $795.88. The original of this memorandum has not been located. During February 1936, while data for the final estimate to be paid the contractor was being prepared, he was asked about the payment for the crushed rock. Several days later Anderson produced a canceled check dated July 9, 1935, in the amount of $795.88 made payable to "Special Disbursing Agent, N. P. S.,"—

That is Watson—

which he claimed to be in payment of the rock crushing. No record could be found to indicate that a bill had been rendered to Anderson for the cost of crushing the rock or that payment had been received for it by the park.

The investigation disclosed that Anderson's check for $795.88 dated July 9, 1935, was included in the deposit of F. W. Watson, disbursing clerk, Yellowstone National Park, dated July 11, 1935, on certificate of deposit No. 4. The schedule of collections, itemizing the credits in the deposit, contains no credit for Mr. Anderson nor does it contain a credit in this amount. The Helena Reserve Bank submitted a photostatic copy of the adding-machine tape that accompanied the deposit, which bears Watson's handwriting, but Watson cannot explain how Anderson's check was included in the deposit. In order that the deposit would balance with Anderson's check included therein it was necessary that a like amount of cash be removed. It was disclosed further that only three persons could have made this substitution in the ordinary course of business, namely Keith Neilson, senior clerk; B. A. Hundley, chief clerk; and F. W. Watson, disbursing clerk. Watson, the accountable officer, eliminates Neilson entirely and Hundley partially. Watson handled all money and prepared the checks for deposit, personally. When prepared for deposit the checks are enclosed in an envelope with the total of them typed on the envelope, which is then sealed.

Watson claims that the only way Anderson's check could have been in the deposit without his knowledge was for someone to

have opened the envelope containing the checks after he had sealed it and after adding Anderson's check thereto, prepare a new envelope bearing the increased amount. He stated that if the deposit were completed within several hours of the time he sealed the envelope containing the checks, the possibility of someone changing the envelope without his detecting it would be minimized.

Agents have been unable to obtain evidence to indicate who made the substitution. Watson admits his accountability but denies using Anderson's check, with knowledge, to balance his deposit of July 11, 1935.

It is recommended that (1) the contractor, Frank B. Anderson, be paid the $795.88 withheld from the final payment on his contract; (2) consideration be given to requiring F. W. Watson, disbursing clerk, Yellowstone Park, Wyo., to reimburse the Government for the $795.88 that was misappropriated by the substitution of Anderson's check between July 9 and 11, 1935.

WILSON A. GEORGE,
Special Agent.
W. F. HUTTON,
Special Agent.

Approved:

LOUIS J. RAUBER,
Special Agent in Charge.

In that situation only three men could have been guilty. One of them was absolutely exonerated by Watson, and another was partially exonerated. But we have Watson's handwriting on the deposit slip by which the check was deposited in the bank, so he did deposit the check in the bank. He prepared to deposit it, because his own handwriting is on the slip. If somebody else had possession of the check, how would the other person know that the amount of the check was $795.88? That exact amount had to be taken out of the cash. The testimony is undisputed that all the cash and all the checks went into Watson's hands.

Mr. Burlew testified as follows:

Mr. BURLEW. You asked why they knew how much cash to take. They took the amount of cash that was stated on the check. That is how they knew how much cash to take.

Senator PITTMAN. The report here shows that the machine that showed the deposit of the check had handwriting by Watson who deposited the check.

Mr. BURLEW. That is right.

Senator PITTMAN. There is no question about that?

Mr. BURLEW. No.

I read from the testimony of Hillory A. Tolson, Assistant Director, Branch of Operations, National Park Service:

Senator PITTMAN. And the cash was turned over to Mr. Watson?

Mr. TOLSON. Yes.

Senator PITTMAN. Cash and checks?

Mr. TOLSON. Yes.

Senator PITTMAN. He would deposit it?

Mr. TOLSON. Yes.

Senator PITTMAN. He deposited the check, probably?

Mr. TOLSON. He did deposit the check, Senator.

Senator PITTMAN. He deposited the check, and there was an equal amount of cash taken out of the cash received during that period of time?

Mr. TOLSON. Yes.

Senator HATCH. Did the investigation disclose that?

Mr. TOLSON. The investigation disclosed that, Senator, because material had been delivered; the check had been given, but Mr. Anderson had not been credited with having paid for the material. Therefore, the only conclusion you can reach is that the cash, in the amount of the check, was taken out of the cash receipts.

That is the history of Mr. Watson. Watson was compelled to pay back the money, and he paid it back, of course. The testimony all the way through is that no one except Watson had a chance to handle any of the cash. He received the cash; and the testimony shows that large amounts of cash came into his hands every day from the various entry gates and concessions. A part of it in checks comes in to him. He is required to deposit every day, and he does deposit every day. He received this check, and the check was for the right amount due for the crushing of the rocks, as shown by the engineer. He got the check, and it is shown that he deposited it on that day, because his handwriting is on the deposit slip. No one else could get at the cash. If any other person could get at the cash, how would he know the exact amount of cash to take out in order to balance the check which was deposited?

In my effort, Mr. President, to hasten this matter I am simply preparing the RECORD for Senators who may desire to read it between now and Monday. I ask unanimous consent to place in the RECORD more completely the matters to which I refer and such other matters or extracts from the testimony taken from the hearings as I may think are relevant.

The PRESIDING OFFICER (Mr. ADAMS in the chair). Will the Senator designate the matters he desires printed in the RECORD?

Mr. PITTMAN. Yes; I will designate them. It will enable me to save the time of the Senate and save me reading them into the RECORD. They will all be taken, of course, from the hearings.

The PRESIDING OFFICER. Without objection, permission is granted.

Mr. PITTMAN. Now, Mr. President, I wish to touch briefly on what is called the "hot oil" case.

There was an effort made by the State of Texas to restrict the production of oil. Congress passed an act known as the Connally Act to aid the States in that work. Of course, the Connally Act dealt with the attempted shipment of illegal oil in interstate and foreign commerce. There was a petroleum oil administrator, of course, who had already been created. As Mr. Ickes has testified, the petroleum oil administration became one of his great burdens. That was his business solely; no one else had anything to do with it. It will be disclosed in the hearings and from the correspondence found therein that he again put his administrative assistant practically in charge of that matter. At this point I quote from a memorandum of Mr. Kelliher, which was written immediately following an interview with Mr. Burlew:

He then brought up the question of Behrens and Buthod. He stated that the first information they had received was a bunch of statements from employees, with a covering memorandum from Mr. Glavis. Mr. Glavis had stated that these statements were affidavits, whereas they were not. They had been given to an attorney, who spent days going over the same, and then Mr. Glavis presented the criminal case that I had prepared. This procedure necessitated an additional 2 weeks' work by two attorneys and the subsequent hearing by Mr. Latimer; that the consensus of opinions of all of these men was that the facts did not substantiate the charges. He then asked me if I had any objection to their reinstatement if they were sent to Wyoming or some other such place for a short time. I informed Mr. Burlew that I would never consent to their being reinstated, inasmuch as they were only crooks, and that I had informed the Secretary yesterday of several instances which confirmed my suspicions, the evidence concerning which I obtained subsequent to the submission of the report. I also advised him that I had not submitted the evidence to the Secretary, as I would probably again be accused of framing somebody.

There were, of course, many "hot oil" shipments there. In other words, it was similar to bootlegging in prohibition days. A board of examiners was established in Texas and also an administrative board. The administrative board—the Federal Petroleum Agency, as I believe it was called—was supposed to give licenses to those who were allowed to ship in interstate commerce, having proved the oil was legal. The Department had examiners and investigators in the nature of detectives for the purpose of uncovering any attempted fraud.

There was a man named T. E. Guillory in the east Texas oil field who leased some ground and two shallow wells which produced, according to the testimony, three or four barrels of oil a day; but, on that little production, he shipped something like 2,000 barrels of oil in interstate commerce before he was caught. Two men were sent down there who were supposed to look after the situation. One of them was Walter H. Behrens and the other was Victor J. Buthod. They were sent into that section and were stationed at the place where the Guillory wells were located, as detectives and examiners, to report on the applications and determine whether or not they were legal.

Each one of these two examiners bought a third interest in these two wells and obtained a deed of conveyance from Guillory for a third interest. They retained that third interest for quite a while, until Glavis sent down a man named Kelliher, who turned out to be a very fine investigator and a man of high honor, as testified to by both the Interior Department and Glavis. He uncovered this fraud,

made his report, and recommended that Behrens and Buthod be discharged from the service.

The Secretary, instead of doing that, had two attorneys in his Department review the case. They reviewed the case and found that there was nothing wrong with these two detectives or investigators having a third interest each in this fake oil well which was the basis of the charge of fraud. But the Secretary was not satisfied with that even, and desired that the characters of these men should be entirely cleared. So he got a Mr. Latimer, a lawyer friend of his from Chicago, to go down there and spend 3 or 4 days and have another hearing to ascertain whether or not Mr. Behrens and Mr. Buthod were guilty of such conduct as to justify their discharge from the service. Mr. Latimer whitewashed them, and, although they had been suspended pending that investigation, when Mr. Latimer's report came in they were both reinstated in the service. They were not, however, left down there in that field. They were sent out to the oil fields in Wyoming.

What happened to Mr. Kelliher? Mr. Kelliher, who had performed magnificent service, was brought to Washington and had a conversation with Mr. Burlew. Mr. Burlew wanted to know if he would not withdraw his objections to these two men being retained in the service. Mr. Kelliher said, "No; I will not; they are crooks." Mr. Burlew asked Kelliher, if he, Kelliher, would not go out to St. Louis or somewhere in the West and stay in the service there. They did not want him any longer in the "hot oil" field, where he was stirring up trouble. That was the act of Mr. Burlew, not Mr. Ickes; the correspondence and the conversations were all with Mr. Burlew.

Let me read from the reports in this matter. They are sufficient, if Senators will read them. I am going to be very brief in what I shall read, for I am going to put more of it in the RECORD for those who may desire to read it, although I do not think many desire to read it.

It will be read in the country, however, with great interest; not here in the Senate.

DEPARTMENT OF THE INTERIOR,
DIVISION OF INVESTIGATIONS,
Washington.

Region, Henderson; division, Texas; district, VII

Date of Report: September 6, 1935.
Serial: Texas 03088–OE.
Subject: T. E. Guillory Co., Wabash Refining Co., T. E. Guillory, R. W. Porter, Walter S. Behrens, and Victor J. Buthod.
Reported by: Special Agents Jack Peterson, J. R. Lewis, and John D. Glass.
Brief:

On September 2, 1935, confidential informant advised that he had received information that T. E. Guillory had about January 1935 acquired an oil lease at Van, Tex., and since that time has secured State tenders for the allowable fixed for these wells; that the wells would not make the allowable and produce very little or no oil; and that Guillory was selling "hot" east Texas crude under the State tenders or was selling the State tenders to some "hot oil" refinery in east Texas. Upon receipt of this advice investigation was commenced by this office on September 3, 1935, to determine whether there was any basis for the information furnished by this informant. The investigation has been conducted as confidentially as possible.

The investigation reveals evidence that the T. E. Guillory Co. purchased in December 1934 a marginal shallow oil lease at Van, Tex. The lease at that time had on it one well drilled about 2 years ago which was then inactive. In February 1935 a new well was drilled and in about April 1935 the company started pumping the 2-year-old wells. Allowables for these wells were fixed at about 21 barrels per day each. From February to May 7, 1935, this company secured State tenders for the amount of the allowable production from these two wells, and reported it actually produced the amount of the allowable from these two wells and delivered it to the Phoenix Refining Co., Dallas, Tex. That since May 7, 1935, the T. E. Guillory Co. has secured State tenders for the amount of then allowable and reported it actually produced this amount of oil and delivered it to the Wabash Refining Co. at Gladewater, Tex., in the east Texas field. Since May 7, 1935, the Wabash refinery has shipped large quantities of products interstate on Federal tenders, part of which were based upon the above State tenders.

The principal owner of the Wabash Refining Co. is R. W. Porter. R. W. Porter and the Wabash Refinery have had notorious "hot oil" reputations in the past.

T. E. Guillory was formerly a special agent of the Division of Investigations, Department of the Interior, and was discharged about May 1, 1934, for cause.

Considerable information and evidence supported by deed records indicate that Walter S. Behrens and Victor J. Buthod, senior examiners of the Federal Petroleum Agency, Kilgore, Tex., are partners of T. E. Guillory in the production of the oil lease at Van, Tex.; that Guillory owned one-third interest, Behrens one-third interest, and Buthod one-third interest.

Considerable information and some evidence has been secured to the effect that two wells on the lease will not produce the allowable, and actually produce only a few barrels of oil per day; that the oil actually produced is sold in the vicinity of Van, Tex., without tenders for use as fuel oil in drilling oil wells and for the purposes; that little or none of the oil actually produced has been delivered to the Phoenix Refining or the Wabash Refinery; and that the State tenders secured for the allowable production of these wells have been used to handle "hot" east Texas crude oil and for the purposes of securing Federal tenders for such "hot oil."

J. R. LEWIS,
JOHN D. GLASS,
Special Agents.
JACK PETERSON,
Acting Special Agent in Charge.

The other report was made on the 30th of September 1935:

DEPARTMENT OF THE INTERIOR,
DIVISION OF INVESTIGATIONS,
Washington.

Date of report: September 30, 1935.
Period of investigation: September 13 to 26, 1936.
Serial: Texas–03088–O. E.
Subject: T. E. Guillory Co., Wabash Refining Co., T. E. Guillory, R. W. Porter, Walter S. Behrens, Victor J. Buthod, Gilliland Refining Co., Ralph Gilliland, Marimac Oil Co., and H. J. McDonald.
Reference: Previous reports by same agents dated September 6 and 12, 1935.
Reported by: John D. Glass, J. R. Lewis, special agents, O. E.
Brief: The purpose of this report is to outline all evidence collected to date in this matter.

Evidence reported herein establishes conclusively that two oil wells of the Van oil pool, known as T. E. Guillory Co., wells No. 1 and No. 2, produced only a few barrels per day. The allowable for these wells was fixed by the Texas Railroad Commission at about 1,300 barrels of oil per month. State tenders were issued to cover that amount, whereas the wells produced only about 60 to 150 barrels per month. From March 11 to May 6, 1935, nine tank cars (about 2,000 barrels) of contraband east Texas field crude were illegally shipped from Mineola, Tex., interstate under State tenders issued to cover amount of the allowable Van pool oil fixed for the T. E. Guillory Co. wells Nos. 1 and 2, in violation of the Connally Act and Federal tender regulations. This east Texas crude was furnished by the Gilliland Refining Co., Gladewater, Tex. From May 7 to September 12, 1935, Federal tenders were granted to the Wabash Refining Co., Gladewater, Tex., for refined products upon false representations that the products originated from Van pool oil produced from the T. E. Guillory Co. wells Nos. 1 and 2, and contraband products of east Texas field crude were shipped interstate under these Federal tenders, in violation of the Connally Act.

That on December 11, 1934, Walter S. Behrens and Victor J. Buthod, senior examiners of the Federal Petroleum Agency No. 1, who were at that time senior examiners of the Federal Tender Board, acquired one-third interest each in the T. E. Guillory Co. well No. 1 from T. E. Guillory, who retained the other one-third interest. Evidence is also conclusive that Behrens and Buthod held such one-third interest each in this well until May 15, 1935; and the evidence tends to show that they have retained these interests from May 15 to date, although this is denied by them and there is recorded an assignment deed executed by them under date of May 15, 1935, purporting to convey their interests.

There is substantial evidence that Behrens and Buthod, as senior examiners of the Federal Tender Board and the Federal Petroleum Agency No. 1, had guilty knowledge of these violations of the Connally Act, concealed the facts from the Board and agency and forestalled investigations by the agency that might have disclosed the facts.

The evidence indicates that Behrens, Buthod, Guillory, Wabash Refining Co. (a corporation), R. W. Porter, Gilliland Refining Co. (a corporation), Ralph Gilliland, and the Marimac Oil Co. (a corporation) conspired to violate and violated the Connally Act and regulations issued thereunder.

RECOMMENDATIONS

It is recommended that Walter S. Behrens and Victor J. Buthod be discharged with prejudice from their present positions in this Department. It is also recommended that this case be referred to the Department of Justice for prosecution, if, after due consideration, such action is deemed consistent with the best interests of the Government.

JOHN D. GLASS,
J. R. LEWIS,
Special Agents.

Approved:

T. C. KELLIHER,
Special Agent in Charge.

Here is Mr. Glavis' report:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
DIRECTOR OF INVESTIGATIONS,
Washington September 25, 1935.

Memorandum for the Secretary.

I am in receipt of the following telegram from Thomas J. Kelliher, special agent in charge at Henderson, Tex.:

"Investigation to date discloses evidence that in December 1934, Victor J. Buthod and Walter S. Behrens, of Federal Petroleum Agency, acquired interest with T. E. Guillory in oil well in Van field. The alleged allowable used for interstate and foreign shipments totaled approximately 2,000 barrels up to May 15, 1935, when deed records show Behrens and Buthod released their interest to Neil Powers 'hot oil' attorney of Tyler. Evidence further shows that oil shipped was not from the Van field but actually was hot east Texas oil from Ralph Gilliland, a 'hot oil' operator of Gladewater. These shipments were made in violation of the Connally Act.

"Have further evidence to show that Behrens, Buthod, Gilliland, and Guillory were partners in operations. Violations continued after May 15, in connection with Wabash refinery at Gladewater, involving interstate shipments of several thousand barrels 'hot oil.' Testimony of employees of agency show that Walter Behrens stopped their investigation, and additional evidence acquired indicates the partnership continued after May 15. For names of witnesses, see my memorandum forwarded you Saturday. We now have additional evidence not in memorandum.

"Special Assistant Attorney General Hill advises in his opinion the facts warrant criminal prosecution against all parties. I recommend immediate suspension Behrens and Buthod. I will arrive Washington not later than Monday morning to submit complete report."

I concur in the recommendation of Mr. Kelliher that Behrens and Buthod be suspended immediately. Telegrams to Mr. Behrens and Mr. Buthod notifying them of their suspension are attached for your signature.

LOUIS R. GLAVIS, *Director.*

Here is Mr. Latimer's report. I think it is perfectly fair in this matter that that also should be published in full. Let me state, in support of the report, that there will be found in the hearings the evidence taken both by the investigators and by Mr. Latimer, if anyone desires to look at it. There is in the record the testimony of a great number of witnesses in both hearings. I shall not attempt to put that testimony in the CONGRESSIONAL RECORD.

Mr. Latimer, a friend of Secretary Ickes and a lawyer of Chicago, was sent down to Texas on this matter to make a separate investigation. I am now about to read from Mr. Latimer's report. I feel that I should put in the entire report, of course; but I am about to read the part of Mr. Latimer's report which I think justifies the removal of Behrens and Buthod from the service, the part of the report that I think confirms the report made by Kelliher and other investigators.

I read this excerpt:

Mr. Latimer goes on to say:

In reviewing the testimony, I must conclude that the accused—

That is, Buthod and Behrens—

have not been entirely frank in their testimony regarding their knowledge of the amount which they advanced to and received from Guillory. Buthod in his first statement states the amount advanced by him as about $300 and the amount received $425. In his oral testimony he fixes the amount received as between $275 and $285. No detailed statement was made by either of the accused regarding the dates when the advancements were made or the amount of same. Neither has stated the exact amount advanced or received. When the claims were placed for collection with Attorney Powers, it was necessary to advise him the respective amounts of the claims before he could enforce a settlement. It would also be necessary for Buthod and Behrens to reach an agreement as to the respective amounts advanced. If a compromise settlement was effected, this again involved mutual agreement between all the parties as to the amounts to be paid. While the amounts advanced were small, they were not negligible when compared with the yearly income of the accused. From the circumstances surrounding the settlement, it would seem that one or both the parties should have a definite recollection of the respective claims and the amount received.

The evidence indicates that the parties themselves had only vaguely defined their respective rights and obligations, and that they relied chiefly for such definition upon their particular construction of the written assignment. The evidence also indicates that, irrespective of the claim or claims of the accused to a share in the profits, the transaction was primarily an advancement of money secured by a transfer of the interest in said oil-producing property.

* * * * * * *

There is certain evidence in the record which it might be argued would show acts of omission by the accused in reference to an investigation of the Guillory wells, but, unsupported by other facts, this evidence has little or no probative value.

* * * * * * *

However, regardless of intent and regardless of the effect in this particular case of the holding by the accused of oil-producing property, it is obvious that the ownership, either legal or equitable, of oil-producing property by men charged with the enforcement of laws regulating the operation of such property tends to bring the law-enforcing agency in disrepute and should be condemned. Such ownership supplies a motive for inferences of favoritism in the operation of the property and furnishes to those anxious to discredit the agency a basis for inference of corrupt motives.

That is taken from Mr. Latimer's report. Is it conceivable that a great department of this Government would retain such men in the service, particularly as examiners, investigators, and detectives, charged with the duty of protecting against crime, even on the report of Mr. Latimer? Mr. Latimer says the conduct should be condemned, that their acquisition of a third interest each in a fake oil well, used for the purpose of obtaining tenders from the State of Texas, upon which to base fraudulent and illegal sales of oil, should be condemned.

A great deal of Mr. Latimer's report is taken up in a discussion of the legal effect of those two conveyances, whether or not they constituted a joint interest or an interest in common or a partnership or a mortgage. Although Buthod testified before Mr. Latimer that he expected his part of the profits of that transaction, Mr. Latimer says he is not convinced but that it was simply a conveyance to secure advancements to Guillory. Why should men who are drawing small salaries want to lend money? The several hundred dollars which Behrens and Buthod let Guillory have, Mr. Latimer says, were no small sums in comparison with their salaries. Yet he holds that all these two men were doing was lending money. They do not know how much they advanced, according to the report, they do not know what they received back; but they were not frank with him. Mr. Latimer knew well enough that he was sent down there for the purpose of whitewashing these two men, and he did the best he could. There is no question about that.

Under the permission granted I insert at this point the Latimer report.

The report referred to is as follows:

IN RE CHARGES AGAINST WALTER S. BEHRENS AND VICTOR J. BUTHOD, AS EMPLOYEES OF THE FEDERAL TENDER BOARD AND FEDERAL PETROLEUM AGENCY NO. 1.—REPORT OF JONATHAN G. LATIMER, SPECIAL ATTORNEY FOR PETROLEUM ADMINISTRATOR

This report is made pursuant to the authority vested in me by the letter of the Administrator of the Petroleum Industry dated December 10, 1935, which letter is attached to this report.

This letter authorized hearings relative to charges preferred against Walter S. Behrens and Victor J. Buthod, and also included within the scope of the hearing certain countercharges which had been made against the proponents of the original charges, which countercharges have reference to the character of the investigation upon which the original charges were based. It is developed at the first hearing that the proponents had not been formally served with a copy of the countercharges and had not been required to file any answer thereto.

I then ruled (see p. 9 of transcript) that Mr. Behrens and Mr. Buthod could file countercharges and that such countercharges, after an answer had been filed, would be included within the scope of the hearing. Such countercharges, however, were not filed, so that the hearing was limited to the charges set forth in the letter dated October 1, 1935. Identical charges were preferred against both of the accused, and the charges as set forth in the letter to Victor J. Buthod were as follows:

"That during a period from December 11, 1934, to May 15, 1935, you acquired, owned, and held, and still do own and hold, an interest in the certain oil-producing property in Van Zandt County, State of Texas; that the interest so acquired, owned, and held by you in said property was and is a partnership interest, namely, a one-third interest, with one Walter S. Behrens, senior examiner for Federal Petroleum Agency No. 1, at Kilgore, Tex., and one T. E. Guillory; that between December 11, 1934, and September 15, 1935, you and the said Walter S. Behrens and the said T. E. Guillory acquired and shipped, or caused to be shipped, in interstate commerce a large quantity of crude petroleum in violation of the act of February 22, 1935 (Public, No. 14), known as, and commonly called, the Connally Act; that your personal relations with persons notoriously reputed to be engaged in oil operations in violation of said Connally Act reflects upon and discredits the Federal Petroleum Agency No. 1."

In order to clarify the issues and to make specific findings of fact, I have summarized these charges as follows:

(1) That during the period from December 11, 1934, to May 15, 1935, Behrens and Buthod acquired, owned, and held an interest in certain oil-producing property in Van Zandt County, Tex.

(2) That Behrens and Buthod still do own and hold an interest in said certain property.

(3) That said interest was and is a partnership interest.

(4) That between December 11, 1934, and September 15, 1935, Behrens, Buthod, and Guillory acquired and shipped, or caused to be shipped, in interstate commerce a large quantity of crude petroleum, in violation of the Connally Act.

(5) That the personal relations of Behrens and Buthod with persons notoriously reputed to be engaged in oil operations, in violation of said Connally Act, reflect upon and discredit the Federal Petroleum Agency No. 1.

The proponents of the charges introduced, to substatntiate such charges, the file designated as serial Texas–0308–O. E., which file contained the evidence submitted to the Administrator, and rested their case. This file contains a summary of the evidence and conclusions therefrom, together with 23 exhibits, consisting of affidavits and documentary evidence, and has been marked "Exhibit 1." The accused introduced as part of the record their reply to the charges, consisting of a statement of facts in the form of an affidavit by the accused, certain other affidavits, and letters having reference to the character of the accused.

At the hearing I took the evidence of the following witnesses:

Neal Powers, Dan T. Parker, G. W. Van Fleet, Joseph Gilbert, Warren Moore, John M. Stephens, John D. Glass, Walter S. Behrens, Victor J. Buthod, and B. T. Fitzhugh.

The affidavits of John F. Davis and C. H. Wilson were also made a part of the record. The accused requested that all Department of the Interior agents whose evidence was used to substantiate the charges be present at the hearing for the purpose of cross-examination. In order to comply with this request, a number of such agents were recalled to Tyler from various points, and all of such agents whose evidence was required by the attorney for the accused were produced at the hearing.

A copy of the file introduced by the proponents of the charges was forwarded to Houston, Tex., where the attorney for the accused resided, so that he could have ready access to such file. A request was made by the attorney for the accused that Mr. Davis, Mr. Shaughnessy, and Mr. Meyers, all of whom were at one time connected with the administration of the oil industry in Texas in an official capacity, but who now reside in Washington, be sent down from Washington to appear and testify at the hearing. In response to this request I stated (see p. 5 of transcript) that the accused had not and would not be denied the benefit of their testimony; that their testimony could be taken in Washington at any time, and that they would be relieved from their duties for the purpose of giving testimony; and that, as a matter of fact, if it should develop that their testimony is relevant, I should insist upon such testimony being taken. At the conclusion of the hearings, in order to expedite the matter and to save the accused the expense of a trip to Washington, I ruled that the evidence of any witness residing in Washington could be taken on interrogatories and cross-interrogatories, and that the materiality of such evidence would be passed on by me at the time the depositions were submitted. The parties were also permitted, at their suggestion, to submit written arguments, and every opportunity was given both parties to submit any evidence which was material.

FINDINGS OF FACT

(1) That during the period from December 11, 1934, to May 15, 1935, Behrens and Buthod acquired, owned, and held an interest in certain oil-producing property in Van Zandt County, Tex.

The accused admit, and the evidence is conclusive, that Victor J. Buthod and Walter S. Behrens acquired an interest in an oil lease on approximately 5 acres in the Van field in Van Zandt County, Tex.; that such interest acquired by each of them was a one-third interest in the said lease by virtue of assignments executed by T. E. Guillory on December 11, 1934, and recorded, respectively, on January 25, 1935, and February 15, 1935; that on May 15, 1935, said Buthod and Behrens quitclaimed their respective interests to Neal Powers, and that on May 20, 1935, Neal Powers assigned the said two-thirds interest so acquired by him to T. E. Guillory.

(2) That Behrens and Buthod still do own and hold an interest in said certain property.

The following evidence is contained in the file of the proponents in reference to this charge:

(a) The affidavits of Boyd Hallman Delos: Thrash and Charles H. Wilson, each of whom quotes statements by Guillory to the effect that the accused had assigned and relinquished their interest in said property in the spring of 1935.

(b) Copies of assignments executed by the accused dated May 15, 1935, quitclaiming their said respective interests to Neal Powers; copy of assignment of said interest executed by Powers to Guillory, dated May 20, 1935, both of said instruments being recorded on May 20, 1935; and also copy of assignment of said property by T. Guillory to John M. Stephens, as trustee, to secure a loan of $1,200 to Guillory, which instrument was recorded on May 20, 1935.

(c) Evidence by affidavits of various witnesses that Behrens and Buthod did not visit the well after a date several weeks prior to May 1, 1935, nor in any way participate in the management of the property, or the marketing of oil produced from the well.

(d) The affidavits of Buthod, Behrens, and Guillory to the effect that Behrens and Buthod relinquished their interest in the property on May 20, 1935.

(e) The verbal statements of Sam Greer, president of the Peoples National Bank and of McMurray, to the effect that Guillory did consummate a loan on or about May 18, 1935, in order to settle with Behrens and Buthod.

In the record submitted by the proponents the statement is made, "The evidence tends to show that they have retained their interest from May 15 to date." The proponents have not, however, either in their argument submitted, the written summary, or the record of the hearing, attempted to explain how the evidence tends to prove such continued ownership. The evidence submitted by them is positive in character to the effect that Behrens and Buthod assigned and relinquished their interest in the property on or about May 15 or 20, 1935. Such evidence was corroborated at the hearing by the testimony of Neal Powers, John M. Stephens, and B. T. Fitzhugh.

I find that Victor J. Buthod and Walter S. Behrens do not now own an interest in said oil-producing property but that said interest was assigned and relinquished by them on or about May 20, 1935. I further find that the evidence submitted by the proponents did not warrant the conclusion that ownership of said interest by the accused continued to the present time but supported a contrary finding.

(3) That said interest was and is a partnership interest.

Evidence was introduced at the hearing in regard to conflicting decisions by Texas courts as to whether the assignment of an interest in an oil lease created a certain form of limited partnership between the assignor and the assignee. I do not think for the purpose of this hearing that any decision of this question is necessary. Evidence was submitted also establishing that the Texas statutes do not provide for securing an indebtedness by transferring property to the mortgagee, and that it is customary to make such a transfer to a third party, as trustee. In a small percentage of such transactions where a small amount is involved the property is conveyed direct to the mortgagee and results in a deed in the nature of a mortgage.

The pertinent evidence submitted by proponents regarding the existence of a partnership is—

(a) The visits of Behrens and Buthod to the well while it was being drilled and several times thereafter.

(b) Several payments by Buthod of workmen's wages and material bills.

(c) Statement by Hallman, workman at the well, that Guillory told him Behrens and Buthod were his partners, and Buthod on one occasion directed him to close down the well.

(d) Buthod's statement that no partnership agreement was entered into with Guillory and no agreement made for division of profits, but that he considered the assignment had the effect of entitling the assignees to their respective one-third of the profits, which position he maintained by his evidence at the hearings.

The acts of Behrens and Buthod mentioned in items (a) and (b) are entirely consistent with their interests as lenders of money in the hope of reimbursement from production. As to item (c), Hallman made a later affidavit to the effect that neither of the accused ever gave him any instructions or had anything to do with any marketing or transportation of oil. Moreover, it should be noted that in Hallman's original affidavit no mention is made of Guillory's declaration.

It is somewhat significant that under the terms of the original assignments Behrens and Buthod could not assign their interest without the consent of the other parties, while no such limitation was imposed on Guillory. It is fair to assume that the parties did not contemplate that Guillory would assign his interest and thereby relinquish the control over the property which he actually exercised and that his interest differed in its nature from the other parties. Guillory and Behrens consistently maintained the position that the assignments were merely security for loans. This is corroborated by Neal Powers, who testified that he so advised the parties regarding the nature of the transaction, and is further corroborated to a certain extent by the testimony of Fitzhugh. The latter witness was the attorney who drafted the original assignments and gave the impression of a disinterested witness. He testified (see p. 156 of transcript) that Guillory was concerned as to what relationship would be created by Guillory's assignment of an interest in the lease, and that he (Fitzhugh) advised him that a mining partnership would result, but that the assignees could not involve him unless they had a contract and had it recorded. It is evident that Guillory did not contemplate and desired to avoid a general partnership relationship.

The most important tests for determining whether a general partnership exists are the sharing of profits and losses, community of power of management, and the presence of a reciprocal principal and agency relationship in the conduct of a business. The only one of the elements proven to be present relates to the sharing of profits, which Buthod claims he became entitled to by virtue of the assignment. The facts surrounding the transaction are not persuasive that the parties contemplated a general partnership agreement. The well was a marginal one, to be drilled only to the first sand, whose productivity was known, and the chances of substantial profits were limited.

In reviewing the testimony, I must conclude that the accused have not been entirely frank in their testimony regarding their knowledge of the amount which they advanced to and received

from Guillory. Buthod, in his first statement, states the amount advanced by him as about $300, and the amount received $425. In his oral testimony he fixes the amount received as between $275 and $285. No detailed statement was made by either of the accused regarding the dates when the advancements were made, or the amount of same. Neither has stated the exact amount advanced or received. When the claims were placed for collection with Attorney Powers, it was necessary to advise him the respective amounts of the claims before he could enforce a settlement. It would also be necessary for Buthod and Behrens to reach an agreement as to the respective amounts advanced. If a compromise settlement was effected, this again involved mutual agreement between all the parties as to the amounts to be paid. While the amounts advanced were small, they were not negligible when compared with the yearly income of the accused. From the circumstances surrounding the settlement, it would seem that one or both the parties should have a definite recollection of the respective claims and the amount received.

The evidence indicates that the parties themselves had only vaguely defined their respective rights and obligations, and that they relied chiefly for such definition upon their particular construction of the written assignment. The evidence also indicates that irrespective of the claim or claims of the accused to a share in the profits, the transaction was primarily an advancement of money secured by a transfer of the interest in said oil-producing property.

I find that the interest of Walter S. Behrens and Victor J. Buthod in said property was not a general partnership interest, nor was it the intention of the parties to create such a partnership, but that Victor J. Buthod understood and asserts that by virtue of the assignment to him of a one-third interest in the lease, he became entitled to one-third of the profits resulting from the transaction.

(4) That between December 11, 1934, and September 15, 1935, Behrens, Buthod, and Guillory acquired and shipped, or caused to be shipped, in interstate commerce, a large quantity of crude petroleum in violation of the Connally Act:

This charge was amplified at the hearing to include a charge of violating the United States statute relating to criminal conspiracy (see p. 21 of the transcript). While this charge is not within the scope of this hearing, it will be included in the comment on the specific charge.

It has been held that the mere knowledge or approval of an act, without cooperation or agreement to cooperate, is not enough to constitute one a party to a conspiracy. There must be an intended participation in the transaction with a view to the furtherance of the common design and purpose.

The proponents have not indicated the unlawful or criminal act which was the object to be accomplished by the conspiracy, other than indicating such act was one violating the Connally Act, and no date has been given as to when the agreement was made. The first (yellow) sheet of exhibit 1 named some eight parties as conspirators. There is no proof of concerted action by the alleged conspirators, and the proof is wholly lacking to substantiate such charge.

The Connally Act prohibits the shipment in interstate commerce of contraband oil, and provides a penalty for those knowingly violating its provisions.

The allowable production for each well is fixed by a State commission, and there is evidence that the minimum allowance of 20 barrels per day is granted more or less automatically, in the first instance, upon application. The Guillory No. 1 well was completed early in February, and the allowable was fixed for that month at 250 barrels and later at 20 barrels per day. There is conflicting, but substantial, evidence that the well in question did not produce the allowable of 20 barrels. There is also substantial, but conflicting, evidence to the effect that commencing March 11, 1935, Guillory used State tenders authorizing the transport of oil produced from these two wells to support the transport of oil not so produced.

Confining comment in the first instance to the period preceding May 15, 1935, there is no evidence that the accused actually participated in the management of the property, other than the affidavit of Hallman, which stated that Buthod at one time told him to close down the well, which statement was denied in a later affidavit. Buthod made several payments to workmen, but these workmen in their affidavits all refer to Guillory as their employer. Several witnesses quoted Guillory as making statements (outside the presence of the accused) to the effect that the accused were his partners or had an interest in the well. Such statements were later denied by Guillory and by at least one of the witnesses and are not competent to prove a partnership and are entitled to little or no weight.

Considerable difficulty was experienced in clearing out the well, and for a period, apparently, no accurate test of the well's capacity was possible. The evidence does not show that the accused had knowledge of the well's capacity, and only by inference could such knowledge be imputed to them. The evidence also fails to disclose that they had knowledge of Guillory's marketing operations preceding May 15, 1935.

The evidence shows that Guillory was a former associate of the accused in Government service, and presumably a man of good repute; that they had no interest in the No. 2 well; that within a month or so after the well was completed, they became insistent for a settlement of their claims; that no Federal tenders were issued prior to June 3, 1935, and that the Van field is not primarily within the jurisdiction of the Federal Tender Board; that no attempt was made to conceal their interest in the well; and that finally the claim was placed in an attorney's hands with the possible result that litigation might follow and all facts made a matter of court record. These surrounding circumstances tend strongly to negative the charge that the accused knowingly participated in unlawful operations by Guillory.

In reference to the period after May 15, 1935, I have found that the accused relinquished their interest in the property on or about that date. There is no relevant evidence to show association by the accused with Guillory after that date, or any active participation by them in Guillory's activities.

There is certain evidence in the record which it might be argued would show acts of omission by the accused in reference to an investigation of the Guillory wells, but unsupported by other facts, this evidence has little or no probative value.

The first Federal tender was issued to Guillory on June 4, 1935. Warren Moore made an investigation in reference to the Guillory wells under Mr. Davis' instructions in July, and his written report is in the proponents' file as exhibit 16. It does not disclose facts which would call for further investigation. He states that he told Behrens that he did not believe the Guillory wells would make their allowable, and that Behrens told him there was no need of further investigation. If Moore deemed the matter of importance, his duty was to call Mr. Davis' attention to same in his written report. So far as the evidence shows, the customary procedure was followed in reference to the issuance of Federal tenders covering the transactions in question. Mr. Davis, in his affidavit, states that he worked intimately with the accused; that at no time was any suggestion made to him of wrongdoing on their part in connection with tenders issued to the Wabash oil and Gilliland, and that as a practical matter, it would have been difficult for the accused to deceive the Board members. It must also be remembered, as shown by the evidence, that Guillory was a small operator. The Van field was not primarily within the jurisdiction of the Federal Tender Board, and the enforcing agencies during this period were busy investigating "hot oil" operations of much greater magnitude than the ones in question. In my opinion, the evidence does not support the charge that the accused knowingly participated with Guillory in violating the Connally Act.

I find, therefore, that the evidence does not sustain the charge that between December 11, 1934, and September 15, 1935, Behrens, Buthod, and Guillory acquired and shipped, or caused to be shipped, in interstate commerce, a large quantity of crude petroleum, in violation of the Connally Act.

(5) That the personal relations of Behrens and Buthod with persons notoriously reputed to be engaged in oil operations in violation of said Connally Act reflect upon and discredit the Federal Petroleum Agency No. 1:

This charge is more definitely set forth in the statements made by Mr. Kelliher for the record. (See p. 17 of transcript.) He there names Ralph Gilliland and T. E. Guillory as the men notoriously reputed to be engaged in "hot oil" operations, with whom the accused associated. The charge might have been used to amplify the first charge and stated as follows:

"That the accused associated themselves with Guillory in the ownership of oil-producing property; that one of the consequences which might be anticipated as resulting from such an association would be the linking of their reputations in the public mind with the reputation of Guillory, both past and future."

It stands as a separate charge, and must be so treated, but in making my findings in reference thereto, I do not intend to be understood as justifying the propriety of the ownership of oil property by the accused. It is obvious that any Government agent might associate with a man of excellent reputation in the community, who might afterward prove to be a scoundrel. If such association was terminated as soon as the facts were known, the agent would not be subject to censure. This charge in reality involves the question of whether the accused in their association with these men, acted as reasonably prudent men would have acted in view of the position which they held and their duty to maintain the good repute of the law-enforcing agency.

First, as to Guillory. So far as the evidence shows, he was a man of good repute at the time the assignments were executed. He was certainly not known as a "hot oil" operator. His first alleged operation in "hot oil" was on March 11, 1935. There is no evidence that the accused had knowledge of Guillory's marketing operations prior to May 15, 1935. Commencing in April, they were endeavoring to terminate their association with Guillory, and from that time their relations were unfriendly. The record is silent as to the publicity given to Guillory's activities prior to May 15. During this period, his oil (a comparatively small amount) was moved on State tenders, and it would take considerable imagination to justify classifying him as a notorious "hot oil" operator. Subsequent to May 15, there is no competent evidence that there was any association between the accused and Guillory, which would furnish any basis for the charge.

As to Gilliland: There is no evidence which shows that the accused personally associated with Gilliland. The affidavit of Robert Wilson which stated that Gilliland was at the well on several occasions at the same time as the accused is contradicted by his later affidavit. His connection with the accused is entirely too remote to support the charge. I therefore find that the personal relations of the accused with Ralph Gilliland and T. E. Guillory were not such as to reflect upon and discredit the Federal Petroleum Agency No. 1.

CONCLUSION AND SUMMARY

I have found that Victor J. Buthod and Walter S. Behrens acquired an interest in oil-producing property in the Van field in Van Zandt County, Tex., by virtue of assignments executed by T. E. Guillory on December 11, 1934, and recorded, respectively, on January 25, 1935, and February 15, 1935; that on May 15, 1935, said Buthod and Behrens quitclaimed their interest to Neal Powers, and that on May 20, 1935, Neal Powers assigned the two-thirds interest so acquired by him to T. E. Guillory.

I have also found that the interest of Walter S. Behrens and Victor J. Buthod in said property was not a general partnership interest, nor was it the intention of the parties to create such partnership, but that Victor J. Buthod understood and asserts that by virtue of the assignment to him of a one-third interest in the lease, he became entitled to one-third of the profits resulting from the transaction.

Regardless of Buthod's statement, the failure of the accused in their testimony to indicate the dates or the amounts when advancements were made; the fact that neither of the accused has stated the exact amount advanced or received; the absence of any documentary memoranda evidencing the transaction; the conflicting statements by Buthod of the amount received by him, and the failure of the bank accounts of the accused to reflect the transaction, are circumstances cumulative in their nature which would justify the inference that there was a variation between the amount advanced and the amount received, and that both of the accused expected and demanded a share in the profits or a bonus of some kind.

I further found that the evidence did not sustain the other three charges.

In my opinion the conclusions reached by the proponents in reference to two of the charges, which conclusions are based on the evidence submitted by them, are unwarranted by such evidence, and indicate a reckless, ignorant, or willful disregard of the probative value of such evidence.

A letter was made a part of the record (see p. 169 of the transcript) which indicates that in January 1935 the services of a special agent for oil enforcement were terminated without prejudice because he was a holder of an interest in an oil lease. It is not within my province to determine what regulations, if any, of the Department have been violated, or what action, if any, the Administrator of the petroleum industry should take in reference to these charges and the facts which have been determined.

However, regardless of intent, and regardless of the effect in this particular case of the holding by the accused of oil-producing property, it is obvious that the ownership, either legal or equitable, of oil-producing property, by men charged with the enforcement of laws regulating the operation of such property, tends to bring the law-enforcing agency in disrepute and should be condemned. Such ownership supplies a motive for inferences of favoritism in the operation of the property and furnishes to those anxious to discredit the agency, a basis for inference of corrupt motives.

In connection with the above comment, it is proper to note the existence of extenuating circumstances. Guillory was a former associate of the accused in Government service, and so far as the record discloses, he was a man of good repute at the time the transaction took place. There was no attempt by the accused to conceal the transaction, but on the contrary, the assignments were recorded, their visits to the well were in the daytime, and ultimately, the claims were placed with an attorney.

The Van field where the well was located was not primarily within the jurisdiction of the Government agency. The interest was relinquished on May 20, 1935, and for some time previous to that date, the accused were attempting to divest themselves of interest in the property. There are also certain letters made a part of the record and attached to the answer of the accused which attest to their good character and the quality of their service, and are entitled to weight.

I am transmitting herewith two copies of this report, together with the documents comprising the record upon which my findings of fact were predicated, which documents are as follows:

1. Proponents' file, designated as "Serial: Texas—03088—O. E."
2. Reply of Buthod and Behrens to the charges, together with exhibits.
3. Transcript of the evidence taken at the hearings in Tyler.
4. Additional record containing affidavit of John Davis, and affidavits of Buthod and Behrens.
5. Brief submitted on behalf of the accused.
6. Brief submitted on behalf of the proponents of the charges.
7. Reply brief submitted on behalf of the accused.

JONATHAN G. LATIMER,
Special Attorney for Petroleum Administrator.

Mr. PITTMAN. Mr. Glavis received from an examiner-reviewer of the Division of Investigations a memorandum made to him that a man named Shannon a year or two before had considerable information with regard to these same men, Behrens and Buthod, at the time they were in the Prohibition Enforcement Service.

I insert the memorandum in the RECORD at this point.

The memorandum is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
DIVISION OF INVESTIGATIONS,
Washington, December 4, 1934.

[Confidential]

Memorandum to Mr. Glavis.

While interviewing Mr. Clem A. Harkey, an applicant for a position as special agent, oil enforcement, he advised me that he was well acquainted with former Special Agents Buthod and Behrens. Harkey indicated that Buthod and Behrens were not the type of men that could be trusted in any investigative position. He also stated that a Mr. Lee Shannon, an employee of the Department of Justice located in New York City, had considerable information concerning Buthod and Behrens, and that Mr. Shannon could be located at the Vanderbilt Hotel in New York.

In connection with the suggestion that one of Mr. Bailey's men interview Mr. Shannon, it occurs to me that this would be unnecessary at the present time, inasmuch as Buthod and Behrens are no longer employed in this Division, and you might be considerably embarrassed in making any adverse recommendation regarding these two men, inasmuch as they have recently been employed in this Division.

I recommend that the above information be placed in a confidential file for use in the event any evidence of irregularity on behalf of Buthod or Behrens is disclosed while they are employed by the Federal Tender Board.

G. H. BUTLER,
Examiner-Reviewer.

Lee Shannon's letter of July 15, 1936, to Secretary Ickes charged them with being crooks and criminals, and when that memorandum came into the hands of Mr. Burlew he wrote to Mr. Holland, Director, Petroleum Conservation Division, and told him that the report "is sufficient to justify us in refusing to reemploy them."

I ask to have inserted in the RECORD at this point the letter addressed to Secretary Ickes by Mr. Shannon and also a memorandum addressed to Mr. Holland by Mr. Burlew.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
TAXES AND PENALTIES UNIT,
July 15, 1936.

Hon. HAROLD L. ICKES,
Secretary of the Interior, Washington, D. C.
(Attention Mr. Baldwin.)

SIR: Complying with your investigator's, Mr. W. Hunter Baldwin's, request in our conversation on this date, I am furnishing you with the following information and dates which deal with violations of the Federal statute committed by Walter S. Behrens and Victor J. Buthod, according to court records and statements made by creditable persons. In submitting this report to you, may I say frankly that I do not wish to become involved in the matter as Buthod and Behrens, according to my investigation, are connected with one of the worst criminal rings that has ever existed in the State of Texas.

1. On Saturday, August 18, 1928, while serving as a Federal prohibition agent stationed in Houston, Tex., with office in the Marine National Bank Building, operated under the supervision of Victor J. Buthod, then acting deputy prohibition administrator, I was furnished with the information that a truckload of whisky was to leave 1206 Boulevard Street, Galveston, Tex., about midnight on this date, that the truck would be driven by one A. N. (Arch) Pressler, who resided in the suburbs of Houston near the telephone road leading from Houston to Galveston, Tex. Soon after I was furnished with this information, Mr. R. N. Irvin, Mr. R. E. Thompson, Mr. J. A. Leathedd, and Mr. E. C. Walters, customs inspectors, came into the office and requested the services of two prohibition agents. Mr. F. P. Keeley and myself were the only two agents available. We assisted the above inspectors, operating under a customs search warrant issued for the premises of A. N. Pressler. At about 2 a. m., Mr. Pressler drove into his premises with the truck loaded with bonded liquor. It was then discovered that the search warrant read daytime and not nighttime. Therefore, same could not be executed until after daylight. On Sunday morning, August 19, after the sun had risen, that there could be no question as to the legality as to the execution of the search warrant, same was executed and a large quantity of bonded liquor was seized. At the time of the seizure, Mr. Pressler made the following statement: That Keeley and myself knew better than to direct the customs officers to seize the liquor in question; that I knew that the liquor was being transported from 1206 Boulevard Street, Galveston, Tex., to Fort Worth, Tex., under the supervision and direction of Victor J. Buthod and Walter S. Behrens. Complaint was filed against Pressler on Sunday, August 19, 1928, before United States Commissioner Winston McMahon, and the whisky stored in the Government warehouse in Houston, Tex. Within a few days, the exact date I cannot quote, the same truck and the same whisky was seized by the police department in Fort Worth, Tex., notwithstanding the fact that it was stored in the warehouse to be held for evidence in the case against Pressler, and that the warehouse was

under the specific supervision of Victor J. Buthod. These records can be obtained from the United States commissioner, both in Houston and in Fort Worth, Tex.

2. It can be verified that during the latter part of July or the first part of August 1928, the exact date I do not remember, Victor J. Buthod, through the assistance of Frank Jackson, had Daisy Robinson transferred from Ardmore, Okla., to 1206 Boulevard Street, Galveston, Tex., for immoral purposes, where he kept her in the premises occupied by Thomas G. Campbell and rented by Buthod and Behrens, the same place where the liquor was being transported from on the date of August 18, as referred to above.

3. That on or about July 1, 1930, Thomas G. Campbell made an affidavit before Lee R. Smith, United States commissioner, Dallas, Tex., that he had purchased whisky from an unknown person in a particular described residence in Dallas, Tex., and that a search warrant was issued for these premises and placed in the hands of Walter S. Behrens, a prohibition agent, for execution; that several days thereafter Behrens returned the search warrant to the United States commissioner, with his return thereon, stating that the search warrant was not executed because of the fact that the premises had been vacated between the date of the purchase and the date of the attempted execution of the search warrant. An investigation was made of these premises and it was found that a Methodist preacher owned same and that he had resided there continuously for the past 18 years. It was then discovered that Behrens had caused Thomas G. Campbell to make false affidavits of numerous purchases of liquor under similar circumstances as above shown. By making these false affidavits and securing such fake search warrants, receipts were issued by Campbell in favor of Walter H. Behrens covering various sums of money which was carried in Behrens' expense account and was paid by the Government. Under these operations, Behrens and his associates did defraud the Government out of these various sums of money.

4. That on or about July 1, 1930, one Thomas G. Campbell was apprehended by Mr. Bill Dancer, constable of Oakcliff Dallas, Dallas County, Tex., for violation of the internal-revenue law while operating an automobile owned by Walter S. Behrens. In this transaction the record of the United States commissioner's office will show that Mr. Dancer seized from Campbell 18½ gallons of whisky, various pieces of copper for whisky stills, and that Campbell objected to his apprehension, stating to Mr. Dancer, according to my information, that the whisky, car, and other property belonged to Walter S. Behrens, a Federal prohibition officer. This arrest and seizure caused considerable disturbance and soon thereafter Behrens was dropped from the prohibition service without prosecution. All of the above can be verified from court records.

5. It was discovered while an investigation was being conducted of the above charges that Buthod and Behrens sent Thomas G. Campbell into the State of Oklahoma, where they hid him to prevent Federal agents from interrogating Campbell concerning their operations. The exact date of this transaction I do not have in my possession, but same should be found in a report made by Frank W. Lohn, who now resides in Dallas, Tex.

6. That Victor J. Buthod and Walter S. Behrens had Thomas G. Campbell to transport $1,000 from Houston, Tex., to Wink, Tex., which was delivered to one A. D. (Mike) Michael as a bribe to keep him from divulging valuable evidence in the assassination of one W. L. Edwards in Houston, Tex. The record from this case will show that D. R. (Dick) Cheatham, an associate of Walter H. Behrens, and a Federal prohibition agent, was convicted and sent to the State penitentiary. The purpose of the expenditure of the $1,000 was to protect Cheatham and others who were, according to reliable investigators, responsible for the death of W. L. Edwards, Keggy Jones and his wife, and Johnny Charis. Mr. F. P. Keeley, who has an office in the Wilson Building, Dallas, Tex., can, and no doubt will, if properly interviewed, give first-hand information concerning the transportation of the $1,000 above mentioned.

In submitting the above information, may it be remembered that I have furnished same at the request of your representative, Mr. Baldwin, and your attention is especially called to the fact that there may be a verification to some extent in the correct dates since these violations occurred several years prior to this date. I prefer that you do not take this statement as true and correct, that you make an investigation and determine from your own investigation what the true facts are. The above was extracted from the original records that I have shown your investigator on this date.

Respectfully,

(Signed) LEE SHANNON.

Subscribed and sworn to before me this 15th day of July 1936.

LEO COHEN, *Notary Public.*

The memorandum is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, July 24, 1936.

Memorandum for Mr. Holland.

I have discussed the report of Lee Shannon regarding Walter S. Behrens and Victor J. Buthod with Secretary Ickes.

After reading the report, the Secretary concluded that we have no occasion to make an investigation to verify Mr. Shannon's statements in view of the fact that Mr. Behrens and Mr. Buthod are now out of the service. The report in itself, however, is sufficient to justify us in refusing to reemploy them and the Secretary thought we should notify the agency with which one of these men is negotiating for a position. I do not recall the name of the agency which you mentioned, but I will leave it to you to get in touch with the proper official and notify him of this record.

E. K. BURLEW,
Administrative Assistant.

(Rubber stamp:) "U. S. Department of the Interior, Petroleum Conservation Division. Noted. July 28, 1936. Holland, Director."

Mr. PITTMAN. I will also put the memoranda of Special Agent A. W. DeBirny in the RECORD, because they show that some of this information was in the possession of Mr. Glavis in 1934, and it goes in under the general agreement, I understand.

The memoranda are as follows:

UNITED STATES DEPARTMENT OF THE INTERIOR,
DIVISION OF INVESTIGATIONS,
Washington, January 22, 1934.

Memorandum for Mr. Glavis.

This is with reference to Victor J. Buthod.

In compliance with your request for an investigation of personnel in the Tyler, Tex., office, you are advised that I examined the records of the Prohibition Bureau in Washington and found that Mr. Buthod was appointed to the Bureau of Prohibition on February 21, 1922, and continued with that organization until it was closed out on July 31, 1933. During this time Mr. Buthod rose from a clerical capacity to that of deputy administrator in Texas. However, during the closing years with the Prohibition Bureau he was demoted from the latter position for the reason that there did not appear to be a sufficiently vigorous enforcement in his area. He was credited with display of considerable ability as an investigator in solving a very brutal murder in Mississippi which was connected with prohibition enforcement.

On November 9, 1921, as a result of certain charges made against a group of prohibition agents, an investigation was ordered from Washington. The investigator asked Mr. Buthod to make a statement under oath and to sign the same which he refused to do, and as a result was suspended without pay for 30 days pending completion of the investigation, which failed to sustain the charges. The charge affecting Buthod was that he was receiving $250 a month from certain bootleggers, but it was very evident to the investigator that Buthod was not spending any money in excess of his salary, nor did he appear to have any money, while the person making the charge was proven to be a perjurer in other matters. The investigator did discover that Mr. Buthod's conduct morally with a Mrs. Daisy Robinson was indiscreet.

From my observation of Mr. Buthod, I do not think he has very high moral ideals. He is a man with iron-gray hair and is about 45 years of age. He also has spent much time in the National Guard, in the Army, and he and Behrens made many raids and have been constantly associated together for the past 10 years. Buthod is taken into their confidence, apparently, by a number of the people in the Tyler office, while Behrens has been placed in charge of the local unit of the Tyler division, which is split into units at Kilgore, Tyler, Joinerville, and Gladewater. I do not believe that these men are the best qualified for the position of agent in charge of the local division.

A. W. DEBIRNY, *Special Agent.*

UNITED STATES DEPARTMENT OF THE INTERIOR,
DIVISION OF INVESTIGATIONS,
Washington, January 22, 1934.

Memorandum for Mr. Glavis.

This is with reference to Walter H. Behrens.

In compliance with your request for an investigation of the personnel at Tyler, Tex., you are advised that the records of the Prohibition Department at Washington disclose that Mr. Behrens was appointed in that Bureau on December 6, 1924, at a salary of $1,680 and was retained in the service until April 10, 1931, when he was discharged with prejudice. The charges which were made against him and sustained were that he made false returns on two search warrants and secured the release of a prisoner from jail before he made bond.

I examined the innumerable charges which were made against Mr. Behrens and the evidence on which he was deemed guilty, and must say that the evidence did not appear at all conclusive. The false returns consisted in reporting that two houses on which search warrants had been issued were vacant when, in fact, they were occupied. There seems to have been considerable confusion as to whether the warrants were for the number of the house next door or not. Regarding the release of the prisoner from jail before making bond, another agent who was with Agent Behrens claimed that he was responsible. However, at a previous time and earlier in the investigation this other agent claimed that Behrens had asked him to release the prisoner. So far as the records show, no harm was done materially by the prisoner being released an hour earlier than he would have been anyhow. There had been, however, considerable investigation prior to this time and especially in 1928 and 1929 because Behrens was said to be protecting bootleggers. However, the Prohibition Bureau was frequently supplied with such charges, and the charges in themselves were not sustained; but at the time of the investigation

Behrens refused to comply with the instructions of the investigating officer, and he, together with his superior, V. J. Buthod, also connected with our Tyler office, were suspended without pay for 30 days. In 1928 Federal Judge Wilson, at Fort Worth, demanded an investigation of the conduct of Behrens and certain other prohibition agents, because a bootlegger had told Judge Wilson that he had been paying these men money for protection. An exhaustive investigation failed to sustain these charges. Buthod and Behrens, I observed while in Texas, are very close to each other, and the last I saw of them were going down the street together. The records of the prohibition department show that Behrens refused a promotion of $400 in order to retain his position directly under Buthod.

As a result of this trouble, the Militia Bureau of the War Department refused to grand Federal recognition to Agent Behrens. Agent Behrens was recommended by politicians for his job with the Prohibition Bureau. He made a very fine Army record during the war, going in as a private and coming out as a first lieutenant. He is one of the very best shots in Texas, and is of considerable assistance to the officers, because when he accompanies any of the agents onto oil property there is very little danger that trouble will arise, because he is recognized as one who is a most dangerous shot and probably able to get his gun into action quicker than anyone else in this section. I do not think that he should be assigned to duties with Agent Buthod, nor do I feel that he should have been employed. However, there does not appear to be any proven evidence of wrongdoing, and I hesitate to recommend termination of his services. I do believe that both he and Buthod are not of the highest moral caliber. Behrens is in charge or known as the keyman of the Tyler division.

A. W. DEBIRNY, *Special Agent.*

Mr. PITTMAN. The following memorandum of Mr. Glavis to Secretary Ickes relates to the misconduct of Behrens at a "President's ball," held at Tyler, Tex., in January 1936:

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY, DIRECTOR OF INVESTIGATIONS,
Washington, February 3, 1936.

Memorandum for the Secretary.

I am in receipt of a report from Special Agent in Charge Kelliher which further emphasizes the unfitness of Senior Examiner Walter Behrens. Mr. Kelliher states:

"I wish to report to you a very disgusting incident which occurred last evening. A so-called 'President's Ball' was held in Tyler at the Blackstone Hotel and at the College Club. I personally attended the function with my wife and Mr. Hill, Special Assistant to the Attorney General. Several employees of the Division and the Federal Petroleum Agency were also present, as well as prominent individuals from east Texas.

"During the course of the evening, Walter Behrens appeared on the scene and, as usual, carried a gun. He followed me around the hall for some considerable length of time and I, of course, took no notice of him, nor did I say anything to him. While he was talking to two employees of the agency about me, Special Agent Glass passed by with my wife, at which time Behrens gave vent to several profane and lewd remarks. He subsequently insulted several other employees of the agency to such a degree that we had considerable difficulty in preventing an open affray.

"Inasmuch as several local people, not connected with the Government service, believed that Behrens would pull a gun and consequently armed themselves with chairs, the whole matter was extremely embarrassing, to say the least, and made it necessary for practically all the employees, including myself, to leave the ball.

"It was quite apparent that Behrens deliberately came there in an attempt to provoke a fight. I, personally, believe that at some time in the future when this entire affair is settled, I shall demand an apology from him, and in saying this I voice the sentiment of practically the entire office force who were present at the ball."

(Signed) LOUIS R. GLAVIS, *Director.*

Beginning on page 583, I call the attention of the Senate to the following colloquy and memorandum of Mr. Kelliher, which, under the permission granted, I insert in the RECORD at this point.

The matter referred to is as follows:

Senator PITTMAN. Here is a memorandum prepared by you on March 11, 1936, with reference to certain conversations which you had in regard to this matter. Was this memorandum made immediately after the conversations referred to?

Mr. KELLIHER. Which memorandum was it, Senator?

Senator PITTMAN. I will hand it to you. It came from your files [handing a paper to the witness].

Mr. KELLIHER. Yes, sir; this was made immediately after my conversation with the Secretary.

Senator PITTMAN. Are the facts therein stated true?

Mr. KELLIHER. To the best of my knowledge and belief; yes.

Senator PITTMAN. Will you read it, please?

The CHAIRMAN. That is a memorandum you made for your own use?

Mr. KELLIHER. Yes, sir.

The CHAIRMAN. Not sent or delivered to anybody?

Mr. KELLIHER. Yes; a copy of this, Senator, was delivered to Mr. Glavis.

The CHAIRMAN. Personally?

Mr. KELLIHER. Personally, while I was in Washington. It is dated at Washington, D. C., Wednesday, March 11, 1936, and reads as follows [reading]:

"MEMORANDUM

"At 3:15 p. m. this afternoon, while in the office of Mr. George W. Holland, chairman of the Petroleum Administrative Board, I was notified by Miss Gorman, receptionist in Mr. Glavis' office, that the Secretary desired to see me immediately. I went to the Secretary's office, and after the regular introduction, I sat down at the Secretary's request, and he then stated, in substance, as follows:

"That since the inception of the oil-enforcement unit in east Texas I had been possessed of the desire for power, and in furthering that desire for power was utterly ruthless in the means whereby I reached the purpose of my desire; that in the very beginning I had stirred up the enmity and bad feeling with the existing tender board on which Mr. Norman Meyers and Mr. Davis served; that I was successful in having these men removed from the positions held by them by resignation. That because of existing conditions he had purposely appointed Mr. Van Fleet under the new set of regulations; that he did not know Mr. Van Fleet personally; that he was a mere applicant for the position; and that he had had his past history traced and he appeared to be an individual possessing more or less executive capacity, and one with a clean record; that he had intentionally appointed Mr. Van Fleet knowing him to be entirely ignorant of the oil industry, in the hope that the enmity existing in east Texas would subside. That I immediately began a campaign to frame Mr. Van Fleet in finding Behrens and Buthod, and setting out to frame them; that I had submitted a report and arriving at certain conclusions wholly unsupported by the evidence contained in the reports; that he had this evidence reviewed by two competent and impartial attorneys in the Interior Department and by a very close friend of his, a Mr. Latimer, of Chicago, whom he had known for some 30 years and knew to be competent, impartial, and a fair attorney; that because of his inherent dislike to do anything prejudicial to any man he had had Mr. Latimer conduct a hearing as to Behrens and Buthod.

"He stated that the men had been suspended while he was absent from the city on a cruise with the President; that had he been present in Washington the action taken would not have been taken in the first instance. He stated that all three of these impartial judges had been unanimous in their opinion that the facts contained in the report did not substantiate the conclusions arrived at; that the men had merely loaned the money and although, perhaps, their conduct was not tactful, there did not appear to be anything wrong with it and that had the facts been called to his attention prior to their suspension, he would have advised them to get rid of their interests in the property, and would have taken no further action. He stated that subsequent to this time he appointed Mr. Freer by naval radio from the steamship *Houston*. That he had then appointed Mr. Waterbury, who was one of Mr. Glavis' men, hoping that past conduct and difficulties might thereby be settled. But he then went on to say that I was not satisfied with this but still being greedy for power I continued to harass the Tender Board and to attempt to usurp all the authority delegated to the Tender Board; that when new orders were drawn up in accordance with his wishes and desires that I had deliberately objected to such orders knowing that he wished to have them personally put into effect; that I had even gone so far as to persuade the Attorney General of the United States, through Mr. Hill, to protest to the President concerning these orders and regulations. He stated that if I should ask him if he could prove those statements he would say "no," but that he was certain that I was responsible for it. He stated that when the orders which had first been referred to the Attorney General by the President that he had gone over to see the Attorney General and at that time explained his motives and desires in promulgating such orders. That the Attorney General had agreed with him and stated that he thought his purpose and desires were quite correct. However, subsequently the Attorney General repudiated his previous statements and wrote a long letter to the President protesting against the orders; that he, the Secretary, knew that such protest originated with Hill and that of necessity, because of my close relationship with Hill, I must have been responsible for it. That he considered such conduct highly disloyal; that I did not have the betterment of the service in my mind at any time but was merely trying to push my own greedy desire for power for personal motives.

"I then told the Secretary that in the very beginning I had gone to east Texas in October 1934 at the request of Mr. Glavis, for the sole purpose of handling cases investigated by the Division of Investigations with the Department of Justice. Mr. Glavis had gone down there with Mr. Martineau pursuant to some arrangement or other made between Mr. Martineau and/or the Attorney General and the Secretary. That I knew nothing about such agreement, but that I expected at the time I went down there to remain only a few months. That my family remained in Washington and I expected to return to Washington. That because of some developments down there, and the necessity for replacing the special agent

in charge, Mr. Christenson, Mr. Glavis asked me to continue down there in charge of the office and in Mr. Christenson's place, which I did. That at the time the Federal Tender Board came into existence, I knew absolutely nothing about the members of the Board; that I did not know any of them personally; and knew nothing about the prior antagonisms or dislikes, or any friction that might have previously existed. That I continued in the position as special agent in charge until January 1935, when the petroleum code was more or less abolished by reason of the United States Supreme Court's decision in the Panama-Amazon case; that, subsequently, after the passage of the Connally Act, I remained in east Texas in charge of the field office of the Division in accordance with direct instructions from the Secretary. I further stated to the Secretary, as he recalled, sometime in April of 1935 I came to Washington and in response to the question put to me personally by the Secretary as to what I was doing in east Texas, I told the Secretary that I was doing nothing.

"The Secretary stated to me that he recalled that conversation and appreciated my frankness in making the statement at the time. That I returned to east Texas and remained there until August of 1935, at which time I advised Mr. Glavis that I had informed the Secretary that I had returned to Washington and was desirous of resigning. I told the Secretary that Mr. Glavis told me to go home and take my vacation and then come back. That I did so and spent my vacation at home and in Canada. Upon my return to east Texas I found that certain facts had come to light concerning the activities of Behrens and Buthod; that I returned to east Texas and supervised that investigation. That, although I did not conduct all of the interviews personally, I felt that from all the facts and circumstances in the case that the evidence obtained showed conclusively that the men were dishonest; that I felt so at the time and still felt so, regardless of whether the Secretary, Mr. Latimer, or any of his attorneys felt that the facts did not warrant such conclusions. Furthermore, I stated that since the time of that investigation I had been notified by F. W. Fisher, attorney for the several "hot oil" operators in east Texas, that on the night of January 16, 1935, Dick Duncan, of the Tyreco Refining Co., had paid $3,000 in the office of Jerry Saedler—$1,000 of which was taken by Saedler, $1,000 by Captain Stanley, of the Texas Railroad Commission, and $1,000 by Behrens. That I further checked up on this and found that at the time there was approved by the Federal Tender Board, or shortly thereafter, tenders for 176,000 barrels of oil allegedly stored in pipes by the Tyreco Refining Co.; that it was a well-known fact throughout the east Texas field that such oil never was, in fact, in such pipes; that it was further worthy of note that the tender hearing at which such applications for tenders were aproved was conducted by Victor Buthod himself in the absence of both Norman Meyers and John Davis.

"The Secretary thereupon asked why I had not reported this to him previously. I told the Secretary the matter had not been reported to him because it appeared to be a rather useless thing and would subject me to criticisms and that I again tried to frame somebody. I then told the Secretary that, relative to his charge that I was responsible for the resignation of John Davis I would defy him or anybody else in the Interior Department to prove that I at any time forwarded any information or reports derogatory to John Davis, and that I would further defy him to furnish me with any facts that John Davis had made derogatory statements about my character; that his assertion that John Davis and I were unable to get along was false; that although we had differences of opinion as to policy they were based on honest conviction and that we were always able to thrash things out over the table. The Secretary admitted that John Davis had never said anything derogatory about me.

"Relative to the charge that I was responsible for the resignation of Norman Meyers, I told the Secretary that in my opinion Meyers was, is, and always will be a skunk—and that if I was responsible in any way for his resignation I should be given a vote of appreciation and commendation. In proof thereof I told the Secretary that shortly after Meyers had submitted a memorandum to me, charging me with investigating Judge Bryant and that I had accepted a thirty-five thousand dollar bribe; that I had been in Washington and Meyers requested a conference with me; that pursuant to this request, with the consent of Mr. Glavis, I joined Mr. Meyers at the Powhatan cocktail room; that I had taken Special Agent George Hurley with me as a witness, as I would not under any consideration talk to Meyers alone; that at the time, in response to a question put to me, Meyers admitted that he had deliberately lied to the Secretary concerning my investigation of the judge and concerning the charge that I had taken a bribe. When asked for his motive, he explained that he had had some personal difficulty with Glavis, which difficulty was the sole reason for his forwarding to the Secretary false statements about me. The Secretary then interjected and stated that he recalled the incident about Judge Bryant, and knowing the Division, he did not think it improbable that I was actually investigating the Federal judge. He stated he did not recall the incident about the bribe and that it apparently had not been called to his attention. I informed the Secretary that it had been called to his attention and that I could prove it; he stated it would not be necessary, inasmuch as he did not believe it anyway, and that he realized that Meyers did not act properly; that he, himself, had bitterly rebuked Meyers for his activities or failure of activity in connection with the Federal Tender Board.

"In connection with the Secretary's claim that I was greedy for power and tried to run everybody, I informed him that at the time Mr. Freer had resigned, he had made the public statement, prior to his going to east Texas, that he had been informed by the Secretary to watch out for me or I would soon be running him. The Secretary was very much surprised that I had been told this. He admitted that he had made such a statement to Mr. Freer, but said that he considered Mr. Freer a damn fool for making such a statement in public. I then went on to state that I was not desirous of being appointed Acting Director of Federal Petroleum Agency, contrary to his belief in the premises; that subsequent to my appointment I found myself up against this proposition. I was in east Texas charged with the responsibility of enforcing the Connally Act with two members of the Federal Tender Board; that Mr. Waterbury was and is an able oil man and undoubtedly knew more about oil now than I could hope to learn; that he was not, however, an attorney; that each tender application in itself presents a legal problem of greater or lesser degree; that Mr. Van Fleet always was and always would be absolutely useless. The Secretary then interposed and stated he realized quite well that Mr. Van Fleet was of no use there; that his only reason for continuing him down there was because I had tried to frame him; and because of such action on my part, he felt that Mr. Van Fleet was worthy of some compensation and appointed him as a member of the Federal Tender Board for that reason. I then went on to state that with these two members serving on the Board the only legal advice came from one of his recent appointees, Mr. Fitzgerald, who was appointed legal adviser to the Board; that Mr. Fitzgerald was a man of 78 or 80 years of age, suffering from what appeared to be palsy, was unable to attend to any duties and, as a matter of fact, had only been in the office once since the date of his appointment. That I understood from good authority, and it was common talk in the east Texas field, that Mr. Fitzgerald was a former law partner, some 30 years ago, of Judge Bullock, who was formerly TOM CONNALLY'S campaign manager; that he had always been associated with the Citizens National Bank with Gus Taylor, a local politician; that this man had gotten rid of him because of his age and inefficiency; had caused Judge Bryant to appoint him a referee in bankruptcy; that he was unable to fulfill these duties and was fired by Judge Bryant, and Judge Bullock and Gus Taylor were desirous of obtaining him a position, and petitioned Senator CONNALLY to help him.

"It was their desire to obtain him a position as a file clerk or some such similar position where he could sit at a desk and perform light duties. However, that Senator CONNALLY, not knowing the circumstances, had recommended him for the position of legal adviser when he was informed that such a position was open. The Secretary then interposed and stated that that situation was true and that he had also been recommended by the local Congressman. He said, however, that he was very much surprised at such a situation and was very glad that I had informed him and that he would take immediate steps to see that something was done about the matter.

"I then asked the Secretary that with that situation existing in east Texas if I didn't do the work, who in God's name was going to do it? I stated that it seemed rather ridiculous to me and a rather foolish charge to be made by anyone; that I was to be condemned because I had done a good job. The Secretary admitted that I had done a good job. He then brought up the subject of the Attorney General by asking me what steps I had taken to inform Hill of the proposed order. I told the Secretary that I did not recall who actually formulated the first proposed orders as submitted to him but I did recall that I had been instrumental in them but did not actually draw up the orders. He then stated that they had been submitted by Mr. Glavis. I then advised him that subsequent to submission of these orders for approval that I had heard nothing about the matter until sometime around the 1st of December when I received a letter from Mr. Glavis transmitting a copy of the proposed orders as amended, with the request that I comment on them. I then replied to Mr. Glavis by letter in which I set out my objections to Mr. ——— and stated that I had discussed the matter with Mr. Hill, and that Mr. Hill agreed with my objections.

"I then stated to the Secretary that I still objected to these orders and that I considered it my duty to express my objections whether he liked to hear them or not. The Secretary then told me that I had been most disloyal in discussing a departmental matter with a member of another department. I then told the Secretary, granting I had acted unwisely in the matter, I had done so in good faith and had reported to him. The Secretary denied that I had. Some little argument followed, at which time I told the Secretary he was lying about the matter. He told me I was lying to him and asked me if I could prove it, at which time I informed him I could. I said there was a memorandum in Mr. Glavis' file showing that he transmitted this information to him. I then went to Mr. Glavis' office, obtained a copy of the memorandum, and returned with it to the Secretary. The Secretary read the memorandum, stated that he had not seen it before, and evidently he was in error but that he was glad to find that he was in error and that I had actually acted in good faith in the matter. I then informed the Secretary that inasmuch as he was so anxious to find out why Mr. Hill objected to the matter, that by making a little inquiry he could possibly ascertain that the Attorney General had sent a copy of the proposed orders to Mr. Hill for Mr. Hill's

opinion. The Secretary asked how the Attorney General got hold of the orders and I told him that evidently the President gave them to him. I then asked the Secretary, in summing up, whether he desired me to resign, whether he desired to fire me, or whether he wished me to return to east Texas. He said that he desired that things remain as they were. I then told the Secretary that I would return to east Texas. I then told him that I would return to east Texas on Friday night unless he had objections to such procedure. He stated that he would see me before that time, and the interview was at an end.

"After the conversation with the Attorney General, referred to above, the Secretary had gone to see the President and that the Secretary had expressed the opinion in the last few days that he did not desire the Attorney General or anybody else to tell him how to run his business, that he was capable of running his own business without assistance from outside departments.

"During the early part of the conversation the Secretary told me he had been over to see the President about these regulations within the last day or two and he told the President that he was going to resign as Oil Administrator. The Secretary also stated that he had first submitted the orders to the President for approval; that the President had forwarded such orders to the Attorney General for his consideration. That after the conversation with the Attorney General regarding the above the Secretary had gone to see the President and that the Secretary had expressed the opinion in the last few days that he did not know whether or not an Executive order was necessary; that the Secretary did not desire the Attorney General, Hill, or anybody else to tell him how to run his business; that if he was not capable of running his own business without interference from outside departments, he would be glad to resign. That the affidavits contained in the Buthod and Behrens case were so much trash and similar to numerous other cases submitted by the Division of Investigation on which he was asked to take action.

"The Secretary stated that I, as an attorney, should realize the importance of affidavits and, as a matter of fact, that the affidavits I had submitted were so much tissue paper. I then advised the Secretary that it had always been my understanding that affidavits in themselves were not worth anything as evidence, but in the event it became necessary subsequently to introduce the evidence obtained in affidavits it would, of course, be necessary for the person making the affidavit to testify as to its contents; that an affidavit was merely informative as to what a witness would testify when called."

Mr. PITTMAN. I now read from page 597 of the hearings:

Senator PITTMAN. I have here a memorandum that you handed me from your files that I went through a while ago, which were brought in under a subpena duces tecum, dated Washington, D. C., March 18, 1936, again dealing with some conversations with Mr. Burlew. Was this memorandum made immediately after the conversations referred to?

Mr. KELLIHER. All of those memoranda were, Senator.

Senator PITTMAN. Are the facts therein stated true?

Mr. KELLIHER. To the best of my knowledge and belief; yes.

Senator PITTMAN. I wish you would read that one [handing the paper writing in question to Mr. Kelliher].

Mr. KELLIHER (reading):

"WASHINGTON, D. C., *March 18, 1936.*

"At 9:30 a. m. I was advised by Mr. Burlew that Mr. Demaray was at his office and desired to see me. Upon arrival at Mr. Demaray's office, I found that he had suddenly been called to the Capitol and had asked Mr. Tolson to talk to me.

"I talked with Mr. Tolson relative to the proposed offer of a position in the National Park Service. At that time Mr. Tolson told me that they contemplated filling the positions of regional directors from Park Service superintendents who had been in the Service some length of time; that he felt it was necessary for an appointee in that branch of the Service to be fully familiar with the general park history and routine. Mr. Tolson then suggested that I consider the advisability of accepting a position in the Jefferson National Expansion Memorial in St. Louis, Mo.

"After talking with Mr. Tolson some 25 minutes concerning the general routine of the proposed position in the National Park Service, I returned to Mr. Burlew's office and advised him relative to my talk with Mr. Tolson. He then told me that he believed I should talk with Mr. Demaray; that he was not wholly in accord with Mr. Tolson's views with the necessity of experience in the National Park Service and the conditions precedent to appointment.

"At 12:15 p. m., Mr. Burlew again called me on the telephone and advised me that Mr. Demaray was in his office. I went to Mr. Demaray's office and he told me that he had just returned from the Capitol, where he and Mr. Cammerer had been subjected to a 2-hour tirade by Senator MCKELLAR, who was objecting to the retention of a man in the Park Service in Tennessee. Among other things, he stated that MCKELLAR threatened them with a senatorial investigation unless they acceded with his wishes and dismissed the man. After explaining the general nature of the Park Service, Mr. Demaray stated that he believed that only one position was open in which I would be interested, and that was the position as assistant regional director in Richmond, Va. He then furnished me with a chart of the set-up on the Jefferson National Expansion Memorial in St. Louis, and suggested the advisability of accepting the position of real-estate officer at a salary of $4,600. He also advised me that Mr. Burlew's brother-in-law was to be chief clerk in the Jefferson National Expansion Memorial in St. Louis.

"I then returned to Mr. Burlew's office about 2 o'clock and informed him of my talk with Mr. Demaray. He then told me that I could have either one of the two positions I desired, but he stated that he had already had my record searched and found that I could be reinstated in civil service, and that in the event I desired to enter into the Government service as a career it would probably be more desirable to accept the position in the Park Service. I then asked him to put both of the offers in writing, which he agreed to do. He furnished me with a written memorandum to that effect this afternoon.

"I then told him that I was interested in the outcome of the division in east Texas, inasmuch as I felt that I could have several of the men placed in the event they contemplated dismissals. He told me that inasmuch as it was impossible to obtain the President's signatures on the proposed orders it would be necessary for the Federal Petroleum Agency to continue and for the division to go out, and consequently it would be either necessary for the division agents to be transferred to the agency or dismissed from the service.

"I then asked him what he contemplated doing relative to Behrens and Buthod, inasmuch as I desired to be informed because of the possible reflection on me following their reinstatement. He stated that they intended to reinstate these men, but to offer them positions outside of the State of Texas, and that he did not know whether they would accept. I told him that of necessity their reinstatement might be a reflection on me and that I desired to know in addition what press statement they contemplated giving out. He said that no press statement would be given out until I either accepted or rejected one of the positions offered me; that in the event of acceptance the statement would be given out that inasmuch as the division was no longer existent in east Texas I was primarily connected with the division that it would be necessary for them to appoint a permanent head of the agency and that they had promoted me because of my past efficiency to a position in the Park Service or the Jefferson Memorial, depending upon which position I accepted.

"He then told me that, of course, there was no objection to my accepting another position with Mr. Glavis in the division, but that he believed it would be much better for me to accept one of the other positions.

"He also advised me that the Secretary desired that I return to east Texas immediately, but that I not return to the office for duty; that he felt that I should be allowed to return to east Texas to settle up my personal affairs, but that was all. I asked him who my successor was to be. He stated that no definite decision had been reached, and that, as a matter of fact, the matter had not been discussed a great deal. He then told me that he thought I had better see the Secretary before I returned; that the Secretary was in a Cabinet meeting this afternoon and probably would return to the Interior Department about 4 o'clock, and that as soon as he could arrange a conference between the Secretary and myself he would call me on the telephone."

The following memorandum was made by Mr. Kelliher at Tyler, Tex., on March 26, 1936, immediately following a long-distance telephone conversation with Mr. Burlew:

Mr. Burlew called about 4 p. m. this afternoon and advised me that they had received several complaints from the White House, from Congress, and other sources relative to the proposed changes down here, and wanted to know whether I had made any decisions as to which of the offers they had made me I intended to accept. I advised Mr. Burlew that I had considered the entire matter and had sent in my resignation air mail this morning and he asked me how soon I had asked that it become effective. I told him I had asked it to become effective April 1, and he then asked me if I would be willing to stay on after that time, at least until a successor could be appointed. I told him I would stay on a few days but not longer than that. He then told me that he thought I was missing a very promising career in Government service, and I in turn advised him that after all my experience in the Government service, I had come to the conclusion that it was not what it was cracked up to be. He then told me that I ought to realize that I had been in some very difficult offices, and I told him I realized it only too well.

Mr. Burlew then asked me if I knew where all the complaints were originating, and I told him that to the best of my knowledge the oil industry in this section was completely disgusted with the administration.

I told him that the newspapers here had carried considerable information concerning the proposed changes and it was my understanding that Mr. Steele had talked with several independents, including Wirt Franklin, on last Saturday morning, and had advised them that it was his intention to cut out this dime novel detective stuff, discontinue field investigations and conduct the Tender Board on an accounting basis only. He then told me that that was not so. I told him that I knew nothing about that, but was merely repeating to him what Mr. Steele had said.

He then told me that the White House had received numerous telegrams from Wheelock, Collins, and Gus Taylor, and other independent organizations in the east Texas field. I then told him that if he desired me to continue on for any time after April 1, to put it in writing and he said that they would advise me as soon as they received my letter.

I then also told him that in answer to numerous questions here I had advised the general public that I was still acting director of the agency and that it was not my desire to embarrass him, the Secretary, or the administration; that I desired to leave the organization on friendly terms so that if at any time in the future I desired to ask any of them for a job, I wanted to be able to do so, and he stated that I could have his assurance that at any time I might care to ask for a position, I could most assuredly have it.

I told him the oil industry is completely disgusted with the reinstatement of Behrens and Buthod.

T. G. KELLIHER.

The next witness from whose testimony I desire to quote is Mr. Thomas G. Kelliher. I have already referred to Mr. Kelliher as signing certain reports recommending the suspension of Behrens and Buthod. I shall read the introductory page to show who Mr. Kelliher is:

Senator PITTMAN. Will you please state your name for the record?

Mr. KELLIHER. Thomas G. Kelliher.

Senator PITTMAN. And your occupation?

Mr. KELLIHER. I am a landman employed by an oil company. My home address is 616 American Bank Building, New Orleans, La.

Senator PITTMAN. Mr. Kelliher, you were in the service of the Interior Department at one time as an investigator, were you not?

Mr. KELLIHER. Yes, sir.

Senator PITTMAN. During what period of time was that?

Mr. KELLIHER. From approximately February of 1934 until the 4th of April 1936.

Senator PITTMAN. Were you ever in the Petroleum Administration or any department of it?

Mr. KELLIHER. I was in the Division of Investigations of the Interior Department, engaged in oil enforcement work.

Senator PITTMAN. Where was that?

Mr. KELLIHER. Both in Washington and in east Texas.

Senator PITTMAN. You had something to do, did you not, with a report relative to the Guillory "hot oil" case?

Mr. KELLIHER. Yes, sir.

Senator PITTMAN. In your investigations into that matter did there come under your notice and your investigation anything relative to a Mr. Behrens and a Mr. Buthod?

Mr. KELLIHER. Yes, sir.

Senator PITTMAN. What positions were they occupying at the time you started your investigation?

Mr. KELLIHER. I might state there, Senator, that the investigation was not started by me. At the time the investigation was started they were senior examiners with the Petroleum Administrative Board in east Texas.

Senator PITTMAN. At what place were they stationed?

Mr. KELLIHER. At Tyler and Kilgore, Tex.

Senator PITTMAN. During your service down there to what towns or places did you go?

Mr. KELLIHER. Tyler and Kilgore and also Henderson.

Senator O'MAHONEY. You state that you did not start the investigation. Who did?

Mr. KELLIHER. It was started by an assistant of mine while I was on my vacation.

Senator O'MAHONEY. What was his name?

Mr. KELLIHER. John D. Glass.

Senator PITTMAN. You made reports with regard to your investigation there, did you not?

Mr. KELLIHER. Yes, sir; I did, Senator.

Senator PITTMAN. Do you know how many reports were made?

Mr. KELLIHER. No; I could not tell you exactly, Senator. That is a matter of record, I believe, with the Interior Department.

Senator PITTMAN. Yes. It is in evidence now in this matter. Possibly it would save time if you would just tell the story of your service in this matter. In the first place, did you ever have any conversations with Mr. Burlew relative to these various matters that you attended to down there?

Mr. KELLIHER. My only conversations with Mr. Burlew took place in March of 1936, just a short time before I left the service.

Senator PITTMAN. Did they relate in any way to Behrens and Buthod?

Mr. KELLIHER. I believe their names were mentioned. Yes; they were, Senator.

Senator PITTMAN. They also related, did they not, to the entire investigation of the parties in relation to those matters down there?

Mr. KELLIHER. They related to a lot of administrative policies; yes.

Senator PITTMAN. You were requested in a subpena to bring with you such written memoranda, letters, and copies of letters and other matters connected with this that you had. Have you done so?

Mr. KELLIHER. Yes.

I read the following communication from Mr. Kelliher to Mr. Glavis, which is in the record:

UNITED STATES DEPARTMENT OF THE INTERIOR,
DIVISION OF INVESTIGATIONS,
Tyler, Tex., October 14, 1935.

Texas—03088–O. E.
Confidential.

Mr. LOUIS R. GLAVIS,
Director, Division of Investigations,
Department of the Interior, Washington, D. C.

DEAR MR. GLAVIS: Reference is made to previous correspondence relative to prosecutive action in the above-entitled matter. Mr. Hill advised me today that after further consideration of this case and the resultant publicity it will undoubtedly cause, it is his desire that after departmental action is taken against Behrens and Buthod you take the matter up personally with the Department of Justice in Washington. It is his desire that the necessary criminal complaints be prepared there and forwarded to him for filing.

Mr. Hill has not in any way changed his opinion relative to prosecution and still desires to institute such action immediately after departmental action is taken. However, because of the possible far-reaching effects and the importance of the case he is desirous that the Department of Justice be fully informed prior to institution of prosecutive action. I would suggest that immediately after Behrens and Buthod are discharged you take the matter up with the Department in Washington and have such complaints drawn as expeditiously as possible. In the meantime, in accordance with your previous instructions, I am transmitting a copy of the report in this case to Mr. Hill.

Yours very truly,

THOMAS G. KELLIHER,
Special Agent in Charge.

K/L.

Mr. Hill was the Assistant Attorney General in that field for the prosecution of the "hot oil" cases and he did prosecute Guillory, with whom Behrens and Buthod were connected in connection with two oil wells. The charges were based upon the report of Kelliher against Guillory, and Guillory pleaded guilty to the charges. Mr. Kelliher states that after Behrens and Buthod were discharged he intended to bring suit against them. As a matter of fact, they were not discharged. They were suspended. A report was made by Mr. Latimer, from which I have read. Latimer said they should be condemned for having an interest in the property, but not discharged. They were reinstated and sent out to Wyoming.

Mr. Kelliher was called to Washington to discuss all these matters with the Secretary and with Mr. Burlew. Immediately after his discussion with the Secretary, Kelliher went into Mr. Glavis' office and made a full memorandum of the entire conversation between the Secretary and himself. It was a very interesting conversation. It seems that Mr. Kelliher was just about as high tempered as the Secretary. They called each other liars. I think both of them afterward withdrew their remarks; but it is an interesting conversation to read.

There is also a memorandum in the record of Mr. Kelliher's conversation with Mr. Burlew, which is entirely accurate, because immediately after Mr. Kelliher had finished testifying, I put Mr. Burlew on the stand and asked him if he had heard all the testimony by Mr. Kelliher. He said he had. I asked him if he had anything to say with regard to it, or any criticism to make of it. This is what he said, in part:

I should say generally that they are correct, although there are some statements in them that I do not recall. The meaning—the purport—of them is correct.

I think Senators would enjoy reading over the weekend the conversations which took place between Mr. Kelliher and the Secretary, and between Mr. Kelliher and Mr. Burlew. Mr. Burlew admits that everything stated by Mr. Kelliher in his memorandum, which I have read, is substantially correct.

So far as the Secretary is concerned, the Secretary had access to the daily reports; and if he saw fit to deny anything Mr. Kelliher said in the matter, he had an opportunity to do so.

I wish to read a few excerpts from Mr. Kelliher's testimony. First I shall read a memorandum prepared by Mr. Kelliher immediately after leaving Mr. Burlew's office:

I was called to the Secretary's office at about 10: 15 a. m. Upon arrival there, the Secretary, after the regular salutation, stated that he desired to have me talk to Mr. Burlew and he would appreciate it if I would be as frank with Mr. Burlew as I had

been with him yesterday. He called Mr. Burlew in the office, and I accompanied Mr. Burlew to his office.

Mr. Burlew advised me that he had talked with the Secretary after my conversation with the Secretary, and that he had been informed of the high points of my conversation. He stated that he, as well as the Secretary, realized that the Federal Tender Board had not been in the past what it should be; that Mr. Steele would be very good and would cooperate to the fullest extent.

He stated that he believed that Waterbury could probably continue to hold his own, although he had heard various reports to the effect that he was not respected very highly in east Texas because of debts he owed, and so forth. I told Mr. Burlew that I thought his information was erroneous. He stated that, regarding Mr. Van Fleet, they expected the future to take care of that. The only reason they kept Van Fleet there was to save his reputation.

He then brought up the question of Behrens and Buthod. He stated that the first information they had received was a bunch of statements from employees, with a covering memorandum from Mr. Glavis. Mr. Glavis had stated that these statements were affidavits, whereas they were not. They had been given to an attorney, who spent days going over the same, and then Mr. Glavis presented the criminal case that I had prepared. This procedure necessitated an additional two weeks' work by two attorneys and the subsequent hearing by Mr. Latimer; that the concensus of opinions of all of these men was that the facts did not substantiate the charges. He then asked me if I had any objection to their reinstatement if they were sent to Wyoming or some other such place for a short time. I informed Mr. Burlew that I would never consent to their being reinstated, inasmuch as they were only crooks, and that I had informed the Secretary yesterday of several instances which confirmed my suspicions, the evidence concerning which I obtained subsequent to the submission of the report. I also advised him that I had not submitted the evidence to the Secretary as I would probably again be accused of framing somebody.

Continuing with Mr. Kelliher's testimony:

Senator O'MAHONEY. Who is this Mr. Steele?

Mr. KELLIHER. He has subsequently been appointed chairman of the Federal Tender Board. I believe he is still there; I do not know.

I continue to read from the same memorandum:

Mr. Burlew stated that I should have reported it, or, if I did not report it, I should say nothing about it now. In further answer to his question as to whether I would object to the reinstatement of Behrens and Buthod, I told him it was his business and the business of the Secretary and that my objection would make no difference anyway. I told him that if they were reinstated he and the Secretary could be responsible for the consequences and not me.

He then asked me what objection I had to the proposed orders, as rewritten. I explained to him that I objected to them because they placed the duty of determining whether or not criminal prosecution could be made on a judicial body which also passed on tender applications. He then read to me an excerpt from a proposed letter, in which it was stated that investigations should be made by the Division of Investigations, but prior to the submission to the Department of Justice they should be approved by the Tender Board, and, in the event the Tender Board disagreed with the Division of Investigations, the question of submitting the case to the Department of Justice should be referred to the Secretary for review. He stated the reason for such a procedure was to prevent the Tender Board from being placed in a position, as it had been in the past, of approving tenders and then having the Division of Investigations refer a criminal case to the Department of Justice concerning the same tenders. I then told Mr. Burlew that this had never happened and, as a matter of fact, would not happen, and that once again he was no doubt erroneously advised by his advisers in east Texas.

He then stated that he felt that the members of the Tender Board should be as well acquainted with the situation in the field as I was. I told him that I quite agreed with him, and that I did not think him quite consistent in blaming me for their failure to be so acquainted. I told him that I personally did not care whether they put the orders into effect or not. My objection stood where it always had stood, and I had put myself on record as being opposed to such orders and that he had in his possession copy of my memorandum concerning this. I told him that anything he could say would not change my opinion, but that, after all, the Secretary was the boss and that if he cared to put the orders as revised into effect, that was his business.

He then brought up the question of the Department of Justice. He told me that my friendship with Hill, who, after all, in the eyes of the Secretary, was merely an attorney for the Department of Justice in Texas, had resulted in actually checkmating the Secretary in his administrative policies; that he did not consider it proper for one Cabinet officer to attempt to dictate to another Cabinet officer relative to matters of policy. I told him once again that that was none of my business. He then stated that until recently he had always placed implicit confidence in Mr. Glavis' reports. As far as he was concerned, such reports were as sacred as the Bible, but that, however, recently that situation had changed. I then told him that that was a question to talk over with Mr. Glavis and I did not care to discuss it.

He then brought up the question of the so-called "gumshoeing" activities in east Texas field. I told him that the only "gumshoeing" person I knew down there was a friend of the Secretary, Mr. Harwood, and that Mr. Harwood, shortly after his arrival had gone around asking all kinds of questions and that I received several complaints concerning his activities, and finally called him in and told him that if he was conducting a personnel investigation for the Secretary all well and good, but if he wasn't he should stop the snooping around because he would undoubtedly be ostracized by all the members of the staff. As a result of this conversation, I advised Mr. Burlew, I was severely criticized by the Secretary, inasmuch as Harwood reported that I had intimidated him. Mr. Burlew said the Secretary had never told Mr. Harwood to conduct personnel investigations. I then told him he undoubtedly received additional information of that kind from Van Fleet. He denied that he had and stated that wasn't what he had in mind when he spoke of "gumshoeing" activities.

Proceeding further with the same matter:

He said he rather meant that the agents, when conducting investigations in the field, were wont to play the part of "gumshoe" detectives. He said that he couldn't see the necessity of such procedure, inasmuch as he used to be a detective himself in West Virginia. I told him that was the trouble with the situation in Washington. There were a bunch of people sitting up here in swivel chairs not knowing the situation in east Texas, attempting to tell us there on the ground floor how to conduct investigations.

I then asked him how he expected to ascertain whether or not certain specific wells were producing or not. Apparently, in his opinion, the procedure should be to go ask the crook if he were producing the well or not and accept his word.

Mr. Burlew then asked me if I didn't have several agents and examiners in my employ who were perhaps not so good. I told him, "Yes; that situation is probably true"; that I had been unable to get any good men because I hesitated to attempt to employ anyone, not knowing whether or not they would be fired in 2 months. He then asked me about the qualifications of Warren Moore. I told him I considered Warren honest and dependable, lacking in executive ability. I told him I had recently recommended an increase in salary for Moore, following Senator CONNALLY'S inquiry, but I had not made the recommendation because of Senator CONNALLY'S inquiry, but rather because I thought Moore worthy of an increase. He then asked me whether Moore would be capable of holding the position of director of the agency. I told him I didn't think so. He then asked if I would be willing to set up a new agency in Rodessa and take charge of it; that he had sent Lindsley down to make an investigation concerning the advisability of setting up a tender board in Rodessa. I then told Mr. Burlew I had met Lindsley and furnished him with a copy of my report, and Lindsley then told me he saw no necessity of making any further investigation and would merely take my report and submit it as his. Mr. Burlew called Mr. Holland and asked if he had heard any word from Lindsley. Holland advised him that Lindsley had intimated from a preliminary review of the situation that he believed the tender board necessary.

Mr. Burlew asked me about the qualifications of Lones. I told him that as a matter of fact I didn't believe anyone capable of handling the position; that I had been unable to get good men because of the procrastination in his division relative to employees. I cited as an example the instance where I requested two stenographers immediately in order to lighten the burden of work down there and do away with the necessity of our regular stenographers working frequently until midnight. I told him the Department went into a big hullabullo about the matter, and it took me 2 months to get a stenographer. He then called Mrs. Maulding and asked her about that particular situation, and she stated that Mr. Puryear had handled it.

The Secretary then rang for Mr. Burlew to attend a staff meeting, and he told me he would like to talk further with me this afternoon. At 11:25 a. m. the Secretary's messenger telephoned and advised me that Mr. Burlew desired me to have lunch with him at a quarter to twelve.

In addition to the above statements, Mr. Burlew, in answer to a statement of mine that I considered it rather funny that I was accused of running things when I had to do all the work and yet was the lowest paid man in the district, stated that he realized, and the Secretary also realized, that I was competent, well informed, and efficient, and that the only reason I had not received an increase in salary was because of the controversy over the new orders. He also stated that both he and the Secretary realized that I had done a good job in east Texas.

In addition to the above conversation this morning, Mr. Burlew also advised me that the order signed by Acting Secretary West, in the absence of the Secretary, authorizing me to deal directly with the Department of Justice, was wholly out of order and improper. Incidentally, Mr. Burlew also advised me that he had in his file the original of the memorandum which I showed to the Secretary yesterday. This memorandum had to do with my criticism of the order and contained the insertion that I had discussed with Mr. Hill.

At 11:55 a. m. I went to lunch with Mr. Burlew at Allies Inn. Most of the conversation during the lunch hour consisted of generalities concerning the weather and living conditions in Texas.

At the termination of lunch Mr. Burlew asked me if I had read Don Kirkley's letter of March 7. He said that this letter published by Kirkley had contained full and complete information concerning all this matter about the orders, the controversy between the Secretary and the Attorney General, and the entire story about Hill. He agreed to show me this letter later on in the afternoon. He stated that both he and the Secretary were very much worried about Kirkley's source of information; that the information contained in his letter was information which could not have, under any circumstances, been known to the Petroleum Administrative Board, and that could only have been known to Mr. Glavis, Mr. McLaughlin, and possibly one or two others in the Division of Investigations, in addition to himself and the Secretary; that he realized very well that I furnished no information to Kirkley because all of the information emanated from Washington, and that he further realized that no one in the Division advised Kirkley because Kirkley could not even put his nose in the Division any place. He further advised that he personally had always considered Kirkley a rat and that they were bitter enemies. I then jocosely remarked that at least that was one thing that both he and Mr. Glavis agreed upon.

He laughed and said that there were many things he and Mr. Glavis agreed upon if Mr. Glavis only knew it; that his only objection to Mr. Glavis' attitude was that you either had to agree with him entirely or not at all.

He then went on to state that when he was associated with Secretary Wilbur that Kirkley had Wilbur's ear; that he double-crossed Wilbur, however, and broke a premature story on pending oil compacts in California, and from that time on he was hated by Wilbur; that Kirkley was also responsible for the publication of a pack of lies relative to certain allegations against Mr. Burlew and Wilbur jointly.

Upon returning from lunch, Mr. Burlew advised me that I had made a very favorable impression on the Secretary yesterday, and that the Secretary always appreciated frankness. He then asked me to come to his office and discuss with him the eligibility of F. H. Martin, a brother of the secretary to Congressman CHARLES J. COLDEN, who is seeking reinstatement in the division of employment in the east Texas area. After looking at the file, I told Mr. Burlew that I knew nothing about him.

I then asked Mr. Burlew as to when we might expect the situation to be cleared up in east Texas. He advised me that he thought it was wholly unfair to me to continue in east Texas at my present salary, and he thought an immediate salary increase was necessary. He thought it expedient and entirely necessary that the entire situation be adjusted and that he confidently expected that the entire matter would be straightened out prior to my return to east Texas tomorrow night, and that both he and the Secretary agreed that they probably made an error in not calling me to Washington several months previous.

Upon returning from lunch, and when talking about Mr. Meyers, I made the statement to Mr. Burlew that I heartily disliked anyone who lied. He laughingly replied that we lie around the Department all the time and no one thinks anything about it.

That is all I desire to read into the RECORD, under the understanding I have that I may place any part of the hearings in the RECORD that I may desire.

The PRESIDING OFFICER (Mr. JOHNSON of Colorado in the chair). The present occupant of the chair understands permission has been granted to the Senator to insert in the RECORD the matters which he desires to have printed.

Mr. ADAMS. Mr. President, I wish to add a few words in reference to the matters which have been discussed by the Senator from Nevada [Mr. PITTMAN]. I wish, first, to comment on the phase of the matter which has to do with the Stitely case.

There is no question, of course, as to the Stitely embezzlement and no question as to the forgeries. The only question involved in the Stitely case, so far as it is here before us, is whether or not the nominee of the President, Mr. Burlew, is in any way chargeable with fault.

Mr. Stitely came to the service as a certifying officer or as an employee preparing pay rolls upon the recommendation of Representative BLAND of Virginia, and of Mr. Albright, Director of the National Park Service. He brought very high recommendations which appear on pages 248 to 249 of the printed record. Representative BLAND, who was the secretary of the Yorktown Sesquicentennial, said, writing to Hon. Ray Lyman Wilbur, then the Secretary of the Interior:

MY DEAR MR. SECRETARY: The United States Yorktown Sesquicentennial Commission wishes to record its sincere appreciation for the assistance rendered to the Yorktown Sesquicentennial celebration by Mr. R. F. Stitely, of the National Park Service.

Mr. Stitely has given most excellent service to the Commission in assisting to keep its financial accounts, and has given on many occasions most excellent advice and counsel. We particularly desire to commend him to you for the high order of his services.

Then Mr. Horace M. Albright, the Director of the National Park Service, sent a memorandum to the Secretary in reference to Stitely, in which he said:

Mr. Stitely has rendered exceptionally meritorious service since his appointment to the Colonial National Monument, and with the experience gained there and his previous experience in the Washington office, he will make a valuable asset to the Accounting Division of this Service.

It was following those recommendations that Mr. Stitely, who was a civil-service employee, was put into the service in a capacity which gave him the opportunity to perpetrate the frauds.

The disbursing functions of the funds upon which the fraud was perpetrated were in the hands of the War Department. An Executive order made by the President on the 10th of April, 1933, being Executive Order 6106-A, provided, after the preliminary parts:

(1) The Chief of Finance of the Army is designated, empowered, and directed to receive, expend, and account for all funds pertaining to and expended for the relief of unemployment through the performance of useful public work under the direction of the Director of the Civilian Conservation work.

(2) Funds authorized by the President for the operation of this conservation activity will be transferred by the Treasury Department to the credit of the War Department and shall be withdrawn by requisition from the Chief of Finance, United States Army, for disbursement.

(3) All expenditures from the emergency conservation fund will be made and accounted for by the Finance Department under Army Account of Advances so as to show separately all the purposes for which funds are expended for unemployment relief work and all adjustments of expended funds will be made in accordance with existing law, regulations, and procedure. Pursuant to instructions from the President, the determination by the heads of the respective departments concerned as to the necessity for expenditures from the emergency conservation fund shall be final and conclusive upon all officers of the Government.

Mr. Stitely was in a place where he received, from the field offices, lists of the pay rolls. He made up a genuine pay roll which was known as the long pay roll. He made up for his own benefit a short pay roll upon which he put, I think, in each instance, eight fictitious names. These were presented to the finance officer of the War Department. Mr. Stitely secured the genuine signature of one certifying officer by having previously forged the signature of another certifying officer, so that when he came to the War Department officer he presented his vouchers O. K.'d by himself, and with the genuine signature of one certifying officer and the forged signature of another.

The War Department never verified the signatures. Notwithstanding the regulations of the Treasury Department that signature cards should be obtained and signatures verified, the War Department, acting as a disbursing agent for the Treasury, never provided themselves with signature cards. They simply took it for granted that the signatures were genuine. Had they checked the signatures, no fraud would have been perpetrated.

Remember, the Interior Department, so far as Mr. Burlew was concerned, had nothing to do with the establishment of the funds, nothing to do with the disbursement of the funds, and no obligation to account for them. The fraud was perpetrated only by reason of the fact that the disbursing officer turned over to Mr. Stitely the individual checks. It would have done Mr. Stitely no good to turn in a fictitious pay roll if the individual checks had then been delivered or sent to the payees of the checks.

Mr. PITTMAN. Mr. President, will the Senator yield?

Mr. ADAMS. Certainly.

Mr. PITTMAN. Did not the proper officer of the Interior Department authorize the disbursing officer by letter to turn the checks over to Stitely?

Mr. ADAMS. That is correct; and that is a thing with which Mr. Burlew had nothing to do.

Mr. PITTMAN. That is the question.

Mr. ADAMS. I shall have to qualify that statement in this way: The first letter authorizing the turning over of the checks was a forged letter. Mr. Lassiter's signature was forged. Subsequently two other letters came with genuine

signatures. The War Department did a very curious thing. They issued a regulation, away back in the beginning, in reference to these checks. They recognized the impropriety of delivering checks to others than the payees; and by an order made May 1, 1934, they provided that—

In the future no checks will be delivered to any individual unless written authorization to do so is on file in this office bearing the signature of the certifying officer or other responsible official. The following form of authorization should be submitted.

And one of the curious things is that in the form which the War Department submitted they filled in the name of Stitely. This direction and this form were prepared by the War Department, and they prescribed this as the form:

I hereby authorize Reno E. Stitely to receive checks from the Finance Office, United States Army, Washington, D. C., for delivery in person to those named on any pay roll or voucher submitted which bears my signature as certifying officer. This authorization to remain in effect until canceled by me.

J. E. STRAUSER,
Acting Deputy Assistant Director.

That is, the War Department recognized the impropriety of delivering individual checks except where there was proper authorization. They did not, even in this order, authorize the return to Mr. Stitely of the vouchers.

Mr. PITTMAN. Mr. President, may I interrupt the Senator there?

Mr. ADAMS. Certainly.

Mr. PITTMAN. They did not have to authorize the return of the vouchers, because the regulation governing the disbursing officers requires that they shall make three copies of the vouchers handed in, keep one, and return one to the Department submitting the vouchers.

Mr. ADAMS. Mr. Stitely was not the one to whom the vouchers should have been returned.

Mr. PITTMAN. I differ with the Senator. I shall have to put in the evidence on that point. The regulation says one copy shall be returned to the party delivering the voucher. That is the substance of the language. I will read the language.

Mr. ADAMS. That is not my recollection.

Mr. PITTMAN subsequently said: Mr. President, the language to which I referred in a colloquy with the Senator from Colorado [Mr. ADAMS] was as follows. I read from page 211 of the Record:

Senator PITTMAN. Let me read that last sentence about the return of these papers—from Finance Bulletin No. 40, which has been placed in the record:

"In such cases the disbursing officer will complete the extra or tissue copy as required by paragraph 12½, A. R. 35–1040, as added by paragraph 2, section V, circular No. 17, War Department, 1933, and return it to the office from which received."

He received it from the certifying officer, through his messenger or designee, Mr. Stitely. It was natural to return the voucher the same way, which he did, according to the evidence.

General REED. That is the practice that has been in the Army for some time.

Senator PITTMAN. Well, the word is "return." He received the voucher from a messenger who seemed to be authorized, and he returned the copy by the same messenger.

Colonel MORTON. That is the answer.

Senator PITTMAN. He did not need any authority such as is found in this authorization with regard to checks, because the regulations required it, outside of that, to obtain checks you have to have that special authority, which you had. The regulations of the Department required the Finance Department to return a copy of the voucher.

The CHAIRMAN. The voucher came, in these particular cases, from Mr. Lassiter's office, who is stationed in the Shenandoah National Park?

Colonel MORTON. Who is supposed to have been stationed there.

General REED. No, sir; it came through the Interior Department. Lassiter sent his vouchers to the Interior Department, who sent them to Morton, by Stitely, to have the checks prepared.

Mr. ADAMS. To return to the regulations governing the fiscal transactions of the camps, this is a part of the longer regulation, Finance Bulletin No. 35, issued April 21, 1933, section 2:

Fiscal officer: Under the provisions of Executive Order No. 6106, dated April 10, 1933, the Chief of Finance of the Army is designated, empowered, and directed to receive, expend, and account for all funds pertaining to and expended for the relief of unemployment through the performance of useful public work under the direction of the Director of Emergency Conservation Work.

Then subsection 9 provides:

Pay rolls: Pay and allowances of civilian employees who are employed specifically for this work will be paid on vouchers prepared and certified in accordance with the regulations of the department concerned by the Army finance officer, who regularly pays the accounts of the office or camp in which such civilian employees are located.

Mr. Stitely, through the medium of his forged letters, secured the delivery to himself of the checks. That was the basis of the fraud. It matters not whether the fault be in the accounting system of the Army or the accounting system of the Interior Department; our inquiry here is solely as to the responsibility of Mr. Burlew. His duties had nothing whatever to do with these functions. It seems to me a study of the record will show that the major fault was on the part of the War Department; that the imposition, the fraud, and the forgery were perpetrated upon the War Department. However, it is known to everyone who has studied problems of the integrity of accounts that no system has been devised, and no system can be devised, which does not in its ultimate end rest upon the integrity of some individual. A system cannot be devised for the security of money or accounts which may not be broken down by a dishonest man in the chain. A system cannot be devised which does not ultimately depend upon the integrity of one or more individuals. So if a dishonest man is in a responsible place there will be corruption, and it cannot be avoided. The great banks of the country, the great corporations of the country, spending untold sums in trying to protect their accounts, are from time to time confronted with forgeries and peculations and thefts, and no system can stop it. This is an instance of that sort of thing—a rare instance, fortunately. The Department of the Interior, during the period covered by these Stitely matters, expended some $4,000,000,000. There were losses or thefts of $84,000.

Mr. President, the General Accounting Office had occasion to pass upon this matter, and at page 192 of the printed record is a letter directed to Mr. Lassly, of the Division of Disbursements of the Treasury Department. It was from him that allocations of these funds were made. I read part of the letter:

Investigation by the Department of the Interior and this Office disclosed that one Reno E. Stitely, former chief of the voucher section in the Washington Office of the National Park Service, prepared the pay rolls, forged the names of the certifying officers thereon, and after securing the checks from the disbursing officer formed the names of the persons named as payees, endorsed his name as second endorser, and either deposited the proceeds thereof in his bank account or received the proceeds in cash.

Many of the fraudulent pay rolls cover services purporting to have been rendered outside of the Washington area and bore on the face thereof instructions for mailing the checks. You, the disbursing officer, were on notice that checks should not have been delivered to Mr. Stitely. However, since you chose to make delivery of the checks to some party other than the purported payees, such person to whom deliveries were made, in this case, Reno E. Stitely, became your agent, and you were responsible for the proper delivery of the checks in payment of vouchers and pay rolls presented for payment. Had you properly performed your duty in either mailing, as per instructions contained on the pay rolls, or making personal delivery of the checks, the fraudulent action would have been detected at its inception.

Many of the vouchers bore on the face thereof the forged signatures of the certifying officers, the signature of the same certifying officer in many instances being entirely dissimilar. This was particularly true in the cases of the signatures of J. R. Lassiter and Robert P. White, associate engineers, National Park Service. It would thus appear that you had sufficient notice that the pay rolls were irregular and should have been questioned before payment.

It has been told repeatedly by this office that a disbursing officer is accountable for the improper delivery of checks issued by him; also that he will not be relieved of responsibility for erroneous payments made by him upon fraudulent vouchers certified to him for payment, although he may be innocent of participation in, or knowledge of, the fraud (1 Comp. Gen. 739). The decision (A–7576, 4 Comp. Gen. 991) quoted by you is inapplicable in this instance.

Accordingly, the disallowances made in your account of the involved payments must be sustained.

In other words, the General Accounting Office held the disbursing officer responsible for these frauds, so that in fact the Government will recover the amount of the Stitely shortage, and it lays the blame upon the disbursing officer.

I am merely pointing out these rather key items in this case because they bring out the story of the Stitely frauds, and nowhere in the chain is there any evidence of responsibility of Mr. Burlew or any connection with Mr. Burlew or any contact with Mr. Burlew. As a matter of fact, Mr. Stitely was introduced to the War Department by a Mr. Tillett, chief accountant of the National Park Service. It was Mr. Tillett who represented the Interior Department in making the arrangements with the War Department and the Treasury Department as to the method of disbursing these funds. So that, notwithstanding the very able presentation which has been made, it seems to me that the Stitely case presents nothing in any way reflecting upon the integrity of Mr. Burlew, nothing reflecting upon his capacity as a public official, nothing showing negligence on his part, or anything which should in any way bar his continued public service.

The second feature I desire to mention is the Power Commission report. Let us remember that this Power Commission report was made by the Power Commission. Mr. Burlew was not on the Power Commission, Mr. Burlew was not connected with it, except in a very indirect way because he was the administrative assistant to the Secretary of the Interior while the Secretary of the Interior was a member of the Commission. Mr. Bonner was apparently the executive secretary of the Commission.

The Commission made a report. It saw fit, rightly or wrongly, which is immaterial, to make changes in the report. The Hearst newspapers charged Messrs. Bonner and Griffith with having for improper purposes concealed the original report. Mr. Burlew had nothing whatever to do with making the original report and had nothing to do with modifying the report, and was not so charged in any way.

Then Messrs. Bonner and Griffith sued the Hearst newspapers for libel. Mr. Burlew did not appear in the charges or the defense, but the Hearst newspapers issued a subpena in 1932 to Mr. Burlew, asking him to produce a copy of what has been referred to as the original report before deletion. In 1932 Mr. Burlew replied that he did not have and was not able to produce the report.

In March 1933 Mr. Wilbur was leaving the service after the change in administration, and these reports were discovered by him in a portion of the safe in his office exclusively reserved for his personal use. Following that, Mr. Burlew, upon a further subpena, handed in to the court the reports.

The report was a thing in which Mr. Burlew was not interested. He had no concern with the libel suit, which was a purely private transaction. The only charges, apparently, against Mr. Burlew were that Mr. Burlew, through the course of the transactions in the Interior Department, must have known where the reports were. His statement is that he did not produce them. In any event, the case in court was a private lawsuit. Mr. Burlew was not acting in any way in a public capacity. He was subpenaed, because he was supposed to have custody of or access to the reports.

The report had been made public, as I gather from the record, during some House hearings. The purpose in getting the report was apparent, when it was finally produced, because it appeared that upon the report was some endorsement by Mr. Griffith. I do not know the connection, but it showed that Mr. Griffith had some contact with it. It also had on it the name of Mr. Wilbur, the Secretary of the Interior.

Mr. Burlew had no connection whatever with the transaction, and had no interest in it. It is said that he was responsible for a misstatement to the Senator from Wisconsin [Mr. LA FOLLETTE]. It seems that the Senator from Wisconsin in 1929—and it must be recalled that the report was made in 1928—had asked Mr. Bonner to send him a copy of the report. Bonner was not a witness before our committee, but a portion of a statement of Bonner made somewhere else in some other hearing recited that he had asked Mr. Burlew as to whether or not he should send the original report, and Burlew had told him to send the amended report. Mr. Burlew stated that that was not so, that the letter which was written was a deceptive letter, and he would not be a party to it. Mr. Bonner was interested in the lawsuit, he was a plaintiff in the lawsuit, and Mr. Burlew had no interest in it.

Mr. PITTMAN. Mr. President, will the Senator yield?

Mr. ADAMS. I yield.

Mr. PITTMAN. Everything from which I have read is in the record of our hearings. Bonner testified in court here, but the testimony from which I have read was made a part of the Glavis report to the Secretary of the Interior, and we find it in this record in Mr. Glavis' report.

Mr. ADAMS. Mr. President, the matter of the lost reports was investigated after Secretary Ickes came into office. An investigation was made, and obviously nothing was found in any way discrediting Mr. Burlew, because at that time Mr. Burlew was not in good standing with the Secretary. The Secretary said that when he came into office, knowing that Mr. Burlew had been there under previous administrations, he would rather have displaced him from authority. He made an investigation, and in his frame of mind at that time, had he found anything out of the way he would not have continued Mr. Burlew in the service.

I repeat, in the record as I have read it, and in the testimony I have read, there is nothing reflecting on Mr. Burlew.

Some other matters in this case will be discussed by the senior Senator from Wyoming [Mr. O'MAHONEY].

Mr. President, I have two letters which I should like to have printed as a part of my remarks, one from the junior Senator from North Dakota [Mr. NYE], who is a member of the committee, but is unable to be present, the other from former Senator Steiwer, who was a member of the committee at the time of his resignation from the Senate.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON APPROPRIATIONS,
March 29, 1938.

DEAR SENATOR ADAMS: I am so sorry to have to be away at the time when the Burlew appointment is moving to the concluding stage after all these weeks of delay. I wanted to say a word in support of Mr. Burlew's appointment when his nomination was taken to the floor.

It is my thought that few servants of the Government have a greater right to high efficiency rating than Mr. Burlew. His service has been of an order making him outstanding, distinctly a credit to his department.

As we sat through the extended hearings of late weeks into such charges as had been brought against him, it so frequently occurred to me that it was amazing that after all his years of service in a department so active as has been the Interior Department there was no chance to resort to anything in the way of charges more serious than those which we have had under consideration. As to those particular charges I have not been able to see anything that approximates a serious reflection upon his record, reputation, and efficiency as a public servant. He is eminently qualified for the post to which he has been appointed, and the Senate ought to be glad to afford an emphatic endorsement in the way of confirmation.

For a little more than 13 years of membership on the Public Lands Committee of the Senate, part of which were in the capacity of chairman, I have seen and heard many charges, some of them most serious, brought against the Interior Department and persons within it. Often Mr. Burlew appeared to be in the center of the picture involved in the charges. But never once did investigation leave any stain upon him.

I do hope the Senate will heed your leadership in this present presentation of the majority views of the committee. I am only sorry that I cannot be present to lend you a hand, however slight it might be. If there seems to be any reason for doing so, you are, of course, at liberty to quote my views as expressed herein.

Sincerely yours,

GERALD P. NYE.

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
January 31, 1938.

Hon. ALVA B. ADAMS,
United States Senator, Washington, D. C.

MY DEAR SENATOR ADAMS: Inasmuch as my service as Senator will terminate tonight, and I will not have opportunity to participate further in the matter of the confirmation of Ebert K. Burlew, I feel that I ought to submit for the committee's record the conclusions which I have reached.

The testimony taken discloses administration practices which I believe are fairly subject to criticism. The testimony which relates to Mr. Burlew's activities does not, in my opinion, disclose that he has been guilty of serious error. If it be a fault to be utterly loyal to superior authority, then Mr. Burlew has been wrong. I cannot conclude, however, that he should be condemned for his loyalty. The records disclose that he is efficient and industrious and has devoted his entire strength to the service of the Department of the Interior. It is my conclusion on the whole that his nomination ought to be confirmed. If I were permitted to vote on this issue, I would vote in favor of confirmation.

Yours sincerely,

FREDERICK STEIWER.

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
January 31, 1938.

Hon. ALVA B. ADAMS,
United States Senator, Washington, D. C.

MY DEAR SENATOR ADAMS: If you think the enclosed letter will be helpful in the record, you have my authority to make use of it.

Sincerely,

F. S.

THE "HOT OIL" CASE

Mr. O'MAHONEY. Mr. President, it is not my intention to go in detail into all evidence that was adduced at the hearings, but I should like to make a few comments upon two of the four cases which have been cited in the minority report. The purpose of my comment will be merely to give point to the conclusion which I have reached, that no responsibility of any kind attaches to Mr. Burlew in any of the cases which have been raised, and that in each instance, when called upon to act, he did all that could be required of him and did that well.

For example, let us consider the so-called "hot oil" case. It is acknowledged that a man by the name of Guillory was arrested and punished for running "hot oil." He was not an employee of the Department of the Interior, there is absolutely no connection in the record between Mr. Guillory and Mr. Burlew, and the latter never had the slightest responsibility toward anything Guillory ever did. The evidence does show that two employees of the Department entered into some sort of a contract or agreement with Guillory. The nature of that agreement was a matter of controversy, but Mr. Burlew had nothing to do with it. These were the persons named Behrens and Buthod. They were employees of that agency under the Secretary of the Interior which was charged with responsibility for administering the Connally "hot oil" law. Their story was that they had loaned money to Guillory and had received as security therefor an interest in an oil well. The significant thing to me in the hearing was that the instrument by which this interest was conveyed was filed as a public record. If the two agents of the Department of the Interior had been conscious of any wrongdoing, if they had received that interest in the that oil well as a bribe, it certainly would have been most unlikely that they would go to the courthouse to file the papers as a public record.

On page 486 of the hearings is to be found the following colloquy as the Senator from Nevada was reading into the record the report of a special investigator appointed by the Secretary of the Interior:

Senator O'MAHONEY. Senator PITTMAN, does it appear from your reading of this record that certain deeds or contracts attempting to convey the interest in the oil property were formally recorded in the county in which the property lay?

Senator PITTMAN. Yes.

Senator O'MAHONEY. The date of the recording was some time in 1935?

Senator PITTMAN. Yes.

Senator O'MAHONEY. Were Buthod and the other man, Behrens, both of them at that time employed by the Government?

Senator PITTMAN. Yes.

Senator O'MAHONEY. So that while they were on the pay roll they made public record of this transaction?

Senator PITTMAN. That is right.

It seemed to me, Mr. President, that this circumstance was a very strong indication that Behrens and Buthod were conscious of no wrongdoing and tended to establish that they had not entered into a conspiracy with Guillory.

NO INFERENCE AGAINST BURLEW

Whatever may have been the facts with respect to these men, however—and I have no judgment whatsoever with respect to them—Burlew had nothing in the world to do with that matter. When the charges were made by Mr. Kelliher that there was some wrongdoing, Secretary Ickes did not commit the investigation to Mr. Burlew. He committed the investigation to a personal friend of his, an attorney in Chicago. He selected Mr. Latimer, and Mr. Latimer, at the direction of Secretary Ickes, went into Texas, investigated the case, and made a report in which he stated in effect that while the action was one which tended to cast reflection upon Government employees, he saw no evidence of wrongdoing.

Mr. Latimer made this very significant finding (hearings, p. 493):

However, regardless of intent, and regardless of the effect in this particular case of the holding by the accused of oil-producing property, it is obvious that the ownership, either legal or equitable, of oil-producing property, by men charged with the enforcement of laws regulating the operation of such property, tends to bring the law-enforcing agency in disrepute and should be condemned. Such ownership supplies a motive for inferences of favoritism in the operation of the property and furnishes to those anxious to discredit the agency, a basis for inference of corrupt motives.

Let me repeat, of the incident, Mr. Latimer said that to those who were anxious to discredit the agency it furnishes "a basis for inference of corrupt motives."

Why indulge an inference against Mr. Burlew? Why hold him responsible for a matter which was not within his jurisdiction?

Toward the close of the hearing, when Mr. Kelliher, who was responsible for the report upon which the whole "hot oil" case was based, was concluding his testimony, I directed a few inquiries toward him. He was testifying with respect to a memorandum which he had written concerning a conference he had had with Mr. Burlew. The memorandum concluded with this statement:

Mr. Burlew then asked me if I knew where all the complaints were originating, and I told him that to the best of my knowledge that the oil industry in this section was completely disgusted with the administration.

Whereupon the following occurred:

Senator O'MAHONEY. When you used the word "administration" in that memorandum, what did you mean?

Mr. KELLIHER. I meant the oil administration as applied to east Texas.

Senator O'MAHONEY. Did you mean the administration with respect to its personnel down there or with respect to its mode of activity?

Mr. KELLIHER. Well, I meant its mode of activity.

Senator O'MAHONEY. That is to say, it was your opinion when you wrote this memorandum that the oil industry in east Texas was not satisfied with the way in which the Connally Act was being administered?

Mr. KELLIHER. Well, I might qualify that, Senator, and say that they were disgusted with the continual turmoil and changes that were taking place down there; I don't think they had any particular objection to the administration of the Connally Act.

Senator O'MAHONEY. Then, their disgust had to do primarily or almost wholly with these internal bickerings?

Mr. KELLIHER. That is correct; yes.

Senator O'MAHONEY. It was not with respect to any substantial act on the part of the officials who were administering the law?

Mr. KELLIHER. I think that is right, Senator.

Senator PITTMAN. These bona fide operators desired to see the Connally Act enforced and the stopping of the sale of the hot oil—illegal oil—did they not?

Mr. KELLIHER. That is correct.

Senator PITTMAN. They were opposed also, were they not, to placing the investigation department under the tender board?

Mr. KELLIHER. I would say some of them were. I don't know as they were entirely, Senator, because I don't believe they knew enough about it—the administrative organization down there—to voice an objection of that kind.

Senator PITTMAN. The legitimate oil companies in that section were opposed to so much hot oil being disposed of?

Mr. KELLIHER. Oh, yes.

Senator O'MAHONEY. Do you think the Connally Act operated to restrain the production and shipment of hot oil?

Mr. KELLIHER. I do not think there is any question but what it did, Senator.

Senator O'MAHONEY. Do you think that the tender board and other officials having to do with the administration of that act sincerely and honestly tried to enforce it?

Mr. KELLIHER. I think there is no doubt about it, Senator.
Senator O'MAHONEY. That was true before you left?
Mr. KELLIHER. That is correct.
Senator O'MAHONEY. Was it true after you left, to your knowledge?
Mr. KELLIHER. Well, I do not think hot oil has ever been a dominant factor in east Texas since that time.
Senator O'MAHONEY. So far as your experience goes, the Connally Act was reasonably well enforced in Texas both before and after your resignation?
Mr. KELLIHER. In the light of all the circumstances, I would say yes.
Senator O'MAHONEY. In other words, you do not want this committee to infer that you are making any criticism of the manner in which the Connally Act was administered by the Interior Department or by the tender board?
Mr. KELLIHER. That is correct.

Again on page 596 is to be found the following:

Senator PITTMAN. Do you want to ask some questions, Mr. Burlew?
Mr. BURLEW. I want to ask Mr. Kelliher if he does not recall that at that time there was a dispute between the Petroleum Administrative Board and the Division of Investigations which caused the memoranda to be written by you? In other words, they were at loggerheads over these situations, which Senator PITTMAN placed in the record?
Mr. KELLIHER. That is correct. The dispute had arisen over these proposed orders. That is the reason I was in Washington.
Mr. BURLEW. It was between the Petroleum Administrative Board and the Division of Investigations and not necessarily me; I was representing the Secretary, who was in the middle, between the two warring agencies, you might say.
Mr. KELLIHER. I think that is stating it exactly, Mr. Burlew.

In other words, this principal witness, who was brought here to testify, as it were, against Mr. Burlew, out of his own mouth acknowledged before the committee that the Connally Act was being well enforced, acknowledged that the oil industry was satisfied with the manner in which it was being administered, and acknowledged that the whole issue boils down to a petty question of personal bickerings with respect to personnel. As I said a moment ago, with respect to these two men, the responsibility for their retention in the service rests absolutely upon Mr. Latimer, a lawyer from Chicago, who was selected by Secretary Ickes, and sent down to Texas to make the investigation. If there is any criticism to be made—and I think none is to be made properly—the criticism should be directed against Mr. Latimer and against the Secretary, who approved his report. Burlew is beyond reproach.

Personally, from my examination of the record, I am satisfied that there was good ground for the decision of the Secretary to accept the report of Latimer, and to permit the two persons to be transferred.

MR. BURLEW AND THE WATSON CASE

Just another word, this about the Watson case. In this instance the official concerned was employed in the Yellowstone National Park. There was a shortage in his accounts of something over $700. Mr. Burlew was not charged with the responsibility of examining the accounts of a receiving official in Yellowstone Park. The matter came to him on a question of a promotion for Mr. Watson.

Let me read just a few extracts from the record on that point:

Senator PITTMAN. You had in your files a letter from Mr. Cammerer to Watson. And, by the way, I did not see Watson's reply to that letter. That was in 1936. Yet this man Watson has been an auditor in the Department here at Washington ever since and is now in the Department with your approval.
Mr. BURLEW. Well, I think the words "with my approval" are a little bit direct. It is the approval of everybody concerned. There are quite a number of people——
Senator PITTMAN (interposing). I only took your evidence for it.
Mr. BURLEW. I want to say this, again, that the record shows that I have been a stop-gap on this Watson case throughout. There is not enough evidence to ruin the man, and I am not going to ruin him in that way. We do not do that kind of thing. But we have taken every precaution to safeguard the Government.
Senator O'MAHONEY. Did anybody recommend his removal?
Mr. BURLEW. Nobody.
Senator O'MAHONEY. The investigators?
Mr. BURLEW. Not even the investigators; they did not. They said we should give consideration to the fact that he did not occupy a responsible position, and I took every precaution to see that he did not.
Senator O'MAHONEY. And the responsible officials of the Park Service under you recommended his retention?
Mr. BURLEW. Not only that, they recommended his promotion, Senator.
Senator O'MAHONEY. But let us get that first. They recommended his retention?
Mr. BURLEW. Yes.
Senator O'MAHONEY. You agreed to that?
Mr. BURLEW. Absolutely.
Senator O'MAHONEY. And they recommended his promotion and you disagreed to that?
Mr. BURLEW. Yes.
Senator O'MAHONEY. But you have no desire to ruin the man, whatever anybody else might desire?
Mr. BURLEW. I have not; and I refused to be a party to it, and I went into that case carefully. We have many disciplinary cases.

So the upshot of this case was that investigators were appointed who examined into the case, and they were unwilling to say from the evidence which they were able to secure that Watson was criminally responsible. The circumstances were altogether consonant with the possibility that somebody else had taken the money; and when the matter came to Burlew upon a recommendation for the promotion of Watson he was careful enough not to permit the promotion, even though the proper officials in the National Park Service had recommended it.

I ask that there may be inserted in the RECORD at this point, without reading, the letter written by Mr. Watson to the Director under date of September 30, 1936, which appears on pages 250 and 251 of the hearings.

The PRESIDING OFFICER. Without objection, it may be printed in the RECORD.

The letter is as follows:

SEPTEMBER 30, 1936.

The DIRECTOR,
National Park Service, Washington, D. C.

DEAR MR. DIRECTOR: This is in reply to your letter of September 26 relating to the report of the Division of Investigations covering the shortage of $795.88 in the July 1935 accounts of Yellowstone National Park while I was functioning as agent-cashier at that place.

Without going into too much detail, I should like to stress several phases of the matter which may or may not be regarded as important at this time.

It was exceedingly difficult for me to go back approximately 1 year and attempt to reconstruct for the investigating officers a situation which obtained at a particular time and to which I then had no reason to attach special significance.

As collecting officer my duties were prescribed and supervised by the Chief Clerk who was responsible for the accounting work of the park and for the enforcement of laws, rules, and regulations applicable to fiscal matters. The facilities for my work and for the protection of Government funds were those made available to me by the park administrative officers.

The shortage was not detected until nearly 8 months had elapsed and then only through a question raised by the contractor. The delay in, and cause of, the disclosure indicate something radically wrong either with the present accounting system or the fiscal procedure followed by the Yellowstone office, or both.

In Yellowstone and elsewhere in the Service the receiving officer is also the billing officer—a condition which affords no detailed internal check on accounts receivable and collections. The situation in this respect is akin to one in which the disbursing officer would pay vouchers and pay rolls prepared by himself. I strongly feel that a receiving officer is entitled to the protection of an independent routine check by other employees but I never had the benefit of such a check except on infrequent examinations by auditors from various establishments in Washington.

I have not seen any part of the investigative report other than my own affidavits which I presume are included, and I have no knowledge of the scope of the investigation other than that portion which extended to me.

On March 31 I addressed two memoranda to Mr. Tolson—one in answer to 16 specific questions propounded by him, and on the same date I sent to Mr. Jennings an informal memorandum suggesting certain lines of investigation which might be pursued profitably by the Service accountants. I kept no copies of the memoranda but in the one to Mr. Jennings I believe I suggested that the contractor must have had some reason for having issued a check in the amount of the shortage and I felt that he might be able to clarify the matter.

The mechanics of the receipt and deposit of Mr. Anderson's check are obvious but it does seem that the salient point lay in the receipt of Mr. Lord's original memorandum by someone and the conveyance to Mr. Anderson by someone of some reputedly authentic document or information sufficient to cause him to

direct the issuance of such a substantial check. As stated previously, my knowledge of the extent of the investigation is limited but I presume this important angle of the case was thoroughly investigated.

Whatever my personal shortcomings while at Yellowstone may have been determined to have been, the attached copies of a letter of November 11, 1935, to you from former Superintendent Toll and one dated January 30 to me from former Chief Clerk Hundley bear no indication of anything other than a willingness to accept my return to my former work at the park.

My detail to the Washington office has lasted nearly 11 months and has been very expensive to me as well as uncertain. The unfortunate trend of events during the detail has embarrassed the Service and has been embarrassing to me officially, socially, and financially. Your letter instructs me to reimburse the Service in the amount of $795.88. In compliance with your instructions, in order to relieve the Service of any embarrassment and to clear my record as accountable officer, I am enclosing Treasurer's Check No. 21999 of the West End Office, Washington Loan & Trust Co., dated September 30, 1936, payable to the Treasurer of the United States in the amount of $795.88.

In transmitting the enclosed check I reiterate my sworn statement that I have never seen either Mr. Anderson's check for $795.88 or the original memorandum to Mr. Hundley from Mr. Lord regarding the amount to be billed against Mr. Anderson.

I shall be glad to continue in the Service at my present salary in any assignment you may desire to give me.

An acknowledgment of the receipt of this letter and the check is respectfully requested.

Sincerely yours,

FRANCIS W. WATSON,
Disbursing Clerk, Yellowstone National Park.

Mr. O'MAHONEY. Without burdening the Senate further with a discussion of the details, let me merely repeat what I have already said. The responsibility for any errors, for any defalcations, for any crimes which may have occurred in the "hot oil" case, in the Watson case, or in the Stitely case—and, so far as I know, in the Federal power case—does not rest upon Mr. Burlew. He was not remotely connected with anything that was done by Behrens or Buthod in the Texas case. If they were protected when they should have been punished—a conclusion which I think is not warranted—it was not he who protected them. He would not ruin Watson when there was no proof against him, and in that Mr. Burlew deserves approval. And as the able Senator from Colorado [Mr. ADAMS] has demonstrated, he is beyond criticism in the Stitely case as well as in the power case.

Mr. President, after careful attention to everything that transpired in the hearings I am satisfied that it can be said with perfect truth that Mr. Burlew has demonstrated that he is an efficient and careful administrator, and one who is entitled to have his nomination confirmed by the Senate.

LEGISLATIVE SESSION

Mr. WALSH. Mr. President, I move that the Senate proceed to the consideration of legislative business.

The motion was agreed to; and the Senate resumed legislative session.

BRIDGES OVER NAVIGABLE WATERS IN MARYLAND

Mr. TYDINGS. Mr. President, because the Maryland Roads Commission are awaiting authority to commence construction of bridges and many plans have to be drawn, I am going to transgress just for a moment to ask unanimous consent that the Senate permit at this time a bill granting official permission for the building of certain bridges to be considered and acted upon, so that the work may be started at the earliest possible moment. I ask unanimous consent for the immediate consideration of House bill 8714.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maryland for the present consideration of the bill?

There being no objection, the bill (H. R. 8714) authorizing the State of Maryland, by and through its State Roads Commission, or the successors of said commission, to construct, maintain, and operate certain bridges across streams, rivers, and navigable waters which are wholly or partly within the State was considered, ordered to a third reading, read the third time, and passed.

HIGHWAY ACCIDENTS

Mr. CAPPER. Mr. President, during the first regular session of the Seventy-fifth Congress I took occasion to call the attention of the Senate to the appalling loss of life and injuries resulting during the year just passed from highway accidents in the United States, a large part of these accidents being preventable.

Mr. President, carelessness kills. Carelessness is more deadly than the sword, the rifle, the machine gun. War is a terrible thing; we are shocked at the callous disregard for human life that war engenders, but, as a matter of fact and as a matter of record, preventable accidents cause far more deaths and injuries than war ever has brought to the American people.

In more than 150 years the United States has engaged in six major wars. In these the total loss of life from weapons—killed in action and died from wounds received in action—has been less than one-quarter of a million—244,977, I believe the records show. And that loss of life was scattered over six wars and a century and a half of time. On the other hand, in the past 15 years—only one-tenth as much time—motor-vehicle accidents alone have killed some 416,000 men, women, and children in the United States.

Facts and statistics compiled by the National Safety Council, which is taking the lead in what I regard as a great work for humanity, show that during last year more than 110,000 men, women, and children met death in accidents in the United States; more than 10,000,000 were more or less seriously injured, including 400,000 permanently disabled. The estimated financial loss from accidents in the United States in 1936, most of them preventable, amounted to $3,700,000,000, one-tenth the amount of the national debt, which causes us so much disturbance.

I repeat, Mr. President, carelessness kills. Carelessness kills in the home, on the streets, on the highways, in the shops, in the offices, kills at work, kills at play, kills at rest.

I need only call attention to the fact that of the 110,000 fatalities from accidents in 1936, 38,500 took place in the homes of our people, that 18,000 were occupational fatalities, that 37,800 resulted from motor-vehicle crashes, and that another 20,000 occurred in other public places, chiefly in recreational pursuits. Let me again emphasize that every family, over any period of just a few short years, will have some of its members in this annual casualty list. Last year in automobile accidents alone 1 family out of every 30 in our whole country, on the average, had at least one of its members either killed or injured.

Mr. President, I have brought these facts to the attention of the Senate once more for two reasons. I want to report something of the progress that is being made toward the eventual control of this accident problem and I want to outline some of the ways in which Members of Congress, as public spirited and privately interested citizens, can be of vital assistance in promoting and speeding up this desperately needed control.

Mr. President, one chief place in which this control is so desperately needed today is in the field of street and highway traffic safety. We know, of course, that motor-vehicle accidents are increasing. In 1936, 1,500 more persons died in these accidents than in 1935; and the records for the year 1937 indicate that the total of these casualties exceeds all other years.

The number of persons who lost their lives in motor-vehicle accidents in the first 10 months of 1937 was 31,950, compared with 29,560 in a corresponding period in 1936. The total number of fatalities for the entire year of 1937 exceeded 40,000.

Mr. President, the first month of 1938 closed with a total of 2,710 traffic deaths—an appreciable reduction below the closing month of 1937—the National Safety Council reported.

The council said January fatalities represented a drop of 30 percent below last December and 17 percent below the first month of 1937. It was the third successive month to show

a sizable reduction in traffic deaths from the corresponding month of the previous year, the council reported.

Out of 36 States reporting for January, 22 showed reductions in fatalities, the council declared. They ranged from a 46-percent improvement in Maryland, where there were 16 deaths last month compared to 67 a year ago, to 6 percent in Iowa and Kansas.

Two groups that furnish the highest percentage of accidents, according to a recent study made in Connecticut, are drivers under 21 years of age and drivers with previous accident record. This report was made the other day to the highway research board of the National Research Council by H. M. Johnson, associated with the board. His conclusions came after an examination of the accident histories of 29,531 Connecticut drivers with records going back 6 years.

Almost twice as many motorists under 21 were involved in fatal highway accidents, Mr. Johnson reports, and the ratio for nonfatal accidents as one and one-half times the average, for this group of drivers under 21.

"If these relations are Nation-wide," says Mr. Johnson, "we could have saved about 3,100 lives in 1937 by bringing the fatal accident rate of persons under 21 to the average of their elders."

Also there are drivers with what might be called the "accident habit," according to the Connecticut records. Mr. Johnson reports that in the nearly 30,000 records checked, those with three or more accidents before the 6-year period, checked, had from seven to nine times as many accidents during the test period as those who had not had any accidents prior to the 6-year period.

Ultimately we are going to have to take this kind of driver off the highways. They constitute too great a hazard to others.

The casual observer might conclude that efforts toward the control of accidents, therefore, are a failure; that all the energies spent by Government, by the accident-prevention agencies, and by numberless other organizations and individuals to stop this slaughter are of little avail. But this is far from the truth.

Mr. President, before I point out some of the activities of certain divisions of our Federal Government which are cooperating strongly in the drive to control accidents, especially on the highways of the Nation, let me first sketch briefly some of the facts leading up to the present intensive organization of all available forces in our country in this safety movement.

Two outstanding examples of success in reducing accident losses are found in the experience of industry and the American railroads. Industrial fatalities are today less than half of what they were 25 years ago, when the larger factories and workshops began to organize for safety. It is estimated by the National Safety Council that since 1913 not less than 270,000 lives of workers have been saved and injury to more than 27,000,000 workers prevented.

Since 1913 also fatalities on the steam railroads have been cut in half and reductions in passenger and employee fatalities have been even greater.

Mr. President, I mention these two examples particularly because the experience of industry and of the railroads has taught us how accidents can be prevented. The same methods used with success in preventing accidents to workers are today being adapted for the control of accidents on the streets and highways.

If we had made broad use of these methods years ago, if the country as a whole had awakened to the menace of traffic accidents before our streets and highways became cluttered with millions of motor vehicles, it is certain that many thousands of lives would have been saved.

But have we, then, started too late in this fight to save lives? Not at all. We have a big handicap to overcome, but we do know how to prevent accidents; and with the determined cooperation of Government, the accident-prevention agencies, and other forces for safety in our country, we shall eventually establish safe conditions for all of our people.

Motor-vehicle deaths and injuries are increasing in our country today only because of the increasing use of the automobile. Each year there are more motorcars, more drivers, more and better roads, and so vastly more mileage. There are also more people each year in our country who are exposed to motor-vehicle accidents.

The 1936 motor-vehicle death total of 37,800 was an all-time high, but the increase of 4 percent over 1935 was substantially less than the advance in travel, as measured by an 11-percent increase in gasoline consumption. The increase in motor-vehicle registrations also exceeded the increase in deaths—8 percent as against 4 percent.

The 1936 rate of 29.4 deaths per 100,000 population was 55 percent greater than the 1925 rate of 19.0. Yet it is encouraging that the increases in motor-vehicle registrations and gasoline consumption have paralleled and even exceeded the mounting death totals. From 1925 to 1936, while motor vehicle deaths increased 78 percent, gasoline consumption advanced 174 percent and car registrations increased 42 percent.

Converted into rates, this means that the 1936 data show 21.0 deaths per 10,000,000 gallons of gasoline consumption as compared with a rate of 25.5 in 1925. The 1936 rate, when compared with 1934, shows a reduction of about 10 percent in 2 years.

These are quite general facts and cover the recent accident experience of the whole country. They do not give a true picture because they include those communities, cities, and States where little or no efforts are being made to reduce accident losses, as well as those communities, cities, and States where an outstanding job of accident prevention is being done. Our real encouragement for the eventual control of accidents comes from the States and cities that have organized intensively to stop accidents and that, therefore, have made quite satisfactory records of lives saved.

For example, 16 States and 116 cities (each of over 10,000 population) not in those States, the whole representing nearly 55,000,000 people, reduced motor-vehicle deaths in 1936, in spite of the increased car usage. Thus, roughly, nearly one-half of all the people in our country have demonstrated that such accidents can be prevented.

How was this done? Briefly, it was by organization of all available forces of government, the police, the courts, and by the cooperation of accident-prevention agencies, other public-spirited organizations, and of the people themselves. The State legislatures passed drivers' license laws, and fostered the safety organization of counties and communities. The cities enlisted all municipal authorities, kept accurate accident records, employed safety engineering in the better protection of streets, intersections, and all dangerous locations, and carried on persistent campaign of education through the newspapers, the radio, and other publicity sources. The accident-prevention agencies supplied safety plans, accident experience of other cities and communities, and provided expert counsel and direction. The cooperating organizations were sincerely cooperative, and helped with funds and influence. And the people themselves, having been taught the hazards and realizing the danger to themselves and their families, became truly safety conscious in all their actions.

Of course, Mr. President, no one who takes an intelligent interest in the prevention of accidents will consider for a moment that the results I have sketched are enough. Senators will remember that I said, that in 1936 roughly one-half of the whole people in our country were successful in reducing motor-vehicle accident losses. What one community, city, or State can accomplish, all others can and should accomplish. This fight for the lives of our people is only well begun, and I conceive that our Federal Government, and each one of the Senators who have listened to me here today, can have an important part in accident prevention.

I am happy to say that our Federal governmental departments, each year, are taking a deeper and more effective in-

terest in safety organization work. Among the most forceful weapons employed by the States today are the provisions of the uniform vehicle code, and especially the model drivers' license law, which were forged under the leadership of our Federal Government. But many of our governmental departments are actively cooperating in general safety work as well as conducting their department affairs along the most approved and standard safety lines. Some of these departments might be mentioned, as follows:

The Bureau of Public Roads, through its State highway planning surveys, is collecting a most valuable fund of information on accidents and accident hazards by means of traffic counts, engineering surveys, and inspections.

The Interstate Commerce Commission, under the Motor Vehicle Carrier Act, has promulgated for motor vehicles and drivers a standard system for the reporting of all accidents, as well as standard rules for drivers and vehicles; and these regulations have been generally accepted by the States, and have stimulated uniformity in highway accident reporting and control.

The Census Bureau, the Bureau of Standards, and other bureaus in the Department of Commerce have continued their several active safety functions.

Practically all Government departments operating motor vehicles, the C. C. C., the War and Navy Departments, the Department of Agriculture, the Department of the Interior, and others, have taken steps toward the prevention of accidents to their own vehicles as well as accidents to their employees.

The Department of Labor has been engaging in active safety organization work as well as continuing its helpful cooperation with State safety departments.

The Works Progress Administration has succeeded in bringing about a still further reduction in accident rates among the unemployed who are on relief.

Mr. President, I wish to point out that many of these Federal departments are also very actively cooperating with the work of the National Safety Council, which for so many years has been the active leader among the country's accident prevention agencies. This organization has been of outstanding help in coordinating the safety work carried on by States, cities, and communities all over the country. All the experience and tested safety methods of the council have been wholly at the service of any community, State or other organization, which has desired to carry on intensive accident-prevention work.

It is noteworthy that the council today has a special group of committees at work studying certain safety problems that must prove of great value in our struggle against accidents. These special committees are composed of eminent engineers, Government officials, and others who have special knowledge of the problems involved. Merely to name these committees indicates the fundamental character of the work undertaken: The committee on speeds and accidents, the committee on tests for driver intoxication, the committee on the pedestrian problem, the committee on the night-accident problem, the committee on accident records, the committee on traffic violations, and so forth.

I strongly believe that the motor-vehicle problem can best be handled through State control. Undoubtedly the States are in the best position to exert the necessary organization, education of the people, and also coercion as this may be applied. We have many oustanding examples of the success with which certain States have reduced their traffic accident losses and are still carrying on this vital battle. My own State of Kansas has made an exceptionally good record in this respect, with the lowest automobile death rate of any of the 15 Midwest States.

There is, nevertheless, an important part of safety work that may be undertaken by the Federal Government. I conceive that our Government may become the great teacher and the great leader in accident-prevention effort. It can extend to the States and to thousands of communities an encouraging and a helping hand in all of their efforts to save lives. It can exert an incalculable and a tremendous influence throughout the whole of our country by means of well-planned safety educational campaigns.

It can stimulate all Government departments and their many employees to increase their safety activities. We have the example of some Government departments organized within themselves for safety, and some are already reaching outside to cooperate with State and other organized activities.

The Accident Prevention Conference, which was organized more than a year ago by Secretary Roper, at the request of the President, has been doing effective work. Despite a wholly inadequate appropriation, the conference is planning during the coming year to wage energetic campaigns, within the limits of its funds, throughout the country. Primarily, it will direct its attention again to States which do not have drivers' license laws. During the last State legislative sessions, thanks largely to the untiring efforts of State and local organizations cooperating with the conference, drivers' license laws were adopted in six States, and existing laws strengthened in many others. Six other States do not now have drivers' license laws, and it is in them that campaigns will be made during the coming legislative year.

The Harvard University bureau for street traffic research investigation showed specific education of 500 accident repeaters with scientific driving tests reduced accidents by about 90 percent.

Generalized safety education, the bureau said, resulted in only a 60-percent reduction of accidents.

The significant factor in its investigation so far, the bureau reported, appeared to be the indication that a program of scientifically planned tests and education was 50 percent more efficient than general attempts.

There is a growing demand that the Federal Government step into the traffic-control picture, and enact and enforce traffic regulations, including the issuance of drivers' licenses under high standard requirements, for the entire Nation.

I do not believe that is the solution of the problem. The States, in my judgment, are clearly competent to deal with the problem, and should do so; but traffic regulations ought to be generally uniform over the entire Nation. License requirements should be approximately the same, and also regulations for crossing intersections and turning at intersections, as well as signals for stopping and changes of direction.

It is gratifying to know that progress is being made along these lines. During the present year 10 States brought their license requirements into conformity with the "uniform operators' and chauffeurs' license act," bringing the total to 31. This good work should be continued until all the States have not only drivers' license laws but uniform laws.

In addition to campaigning for drivers' license laws, the conference has done constructive work in the schools. It has prepared and distributed to 33,000 public schools posters urging students to learn to swim—there are 7,500 accidental drownings in the United States every year—and also a comprehensive booklet on the prevention of home accidents. At present, the conference is in the process of distributing half a million booklets on farm accidents, which is one of the most important publications on this subject that has been published. These farm safety booklets are going to rural schools, county agents, Red Cross centers, and to other channels that feed directly into farm homes.

The outstanding feature of the work of the Accident Prevention Conference has been the telling of the absolute truth about the causes of accidents without regard to the selfish interests affected. There is a continuing need for such an independent organization in this country. The accident situation will never be solved until it is attacked on a united front by fearless safety workers who are interested only in saving human lives.

The six-point program offered by the Bureau of Public Roads is so altogether sensible that it should be everywhere

accepted. It begins with the requirement that all States make stringent examination of motor-vehicle operators. Today several States allow any man, woman, or child to drive as he pleases; more require only a perfunctory demonstration of driving ability; all but a few renew licenses indefinitely without reexamination. A standard licensing procedure would avoid much of the dangerous incompetence tolerated at present.

Human failings having been minimized, the program would next attack mechanical defects. Compulsory inspection of motor vehicles would be ordered in every State. The effectiveness of this requirement has already been demonstrated in several areas and there is no reason why it should not be applied nationally. The same argument holds for two other recommendations: Mandatory reports for all accidents and the establishment of highway police patrols in every State.

There has been much talk about the last two points in the program, but very little action. Uniform road rules and traffic regulations are urged for the entire Nation. A left turn, for instance, is indicated by extending the left arm horizontally in 27 States, pointing to the left in 6 States, upward in 1 State, and downward in another. Wide differences in the penalties for traffic violations are likewise unsatisfactory. A drunken driver may be punished in different States by sentences ranging from 30 days to 20 years in prison.

Even if all these proposals take effect, however, the traffic problem will not be entirely solved. The District of Columbia, for instance, must solve its own problems of pedestrian control, parking restrictions, and taxi regulation if its annual toll of more than 100 lives is to be appreciably reduced.

I suggest also that each of my fellow Senators may have his own important part in the Nation's accident-prevention efforts. This battle against loss of life and the prevention of crippling injury is one where the personal influence of the individual is all-powerful. There is not one of my colleagues who is not a member of numerous clubs, societies, and organizations. One of the most powerful motivating factors in the success of cities and States in reducing their accident losses has been the collective influence exerted upon public officials and upon individuals by the business, professional, fraternal, and other societies active within those commonwealths. Safety in those States and cities has really become popular.

Mr. President, I want to call attention to one other phase of the accident situation, and one in which my fellow Senators may be helpful. I refer particularly to the farm accident problem. Of the whole number of occupational fatalities aggregating 18,000 in 1936, about 4,500 resulted from agricultural accidents. Our farm population is particularly susceptible to those injuries which result from machinery, from the use of hand tools, from falls, and from the management of farm animals. To these should be added an excessive number of deaths from heat in unusually hot summers.

Detailed information about agricultural accidents is limited because there have been few organized efforts made to secure it. I can conceive of no more laudable way to employ a moderate fund each year than in the kind of survey and systematized records that might result from a study of farm injuries. Certainly a complete knowledge of why and how men and women on the farms are killed or injured should lead to methods of instruction and safe practices that would eventually save many of these lives.

My fellow Senators will not fail to see in this suggestion, perhaps, a personal opportunity to benefit a large body of their constituents, and thus to contribute something more toward the control of those accidents which, in every walk of life, are striking down their thousands and tens of thousands every year.

The control of accidents, with all their misery and suffering and money losses, is entirely within the power of our people if they will only determine to exert that control. We can make all the people safe by a thorough cooperation in effort on the part of Government, the States, the cities, the industries, miscellaneous organizations, and the people themselves. Safe homes, safe work places, safe streets and highways are well within our grasp. Let us take them.

Mr. President, I do not approve of dealing in generalities when considering a specific problem, even though the problem is as big as that of preventable accidents. I say it is our duty, as a Congress and as a people, to lay out a definite program and then carry that into effect.

There is no one panacea for all accidents. There is not even one panacea for all home accidents, or for all industrial accidents, or for all traffic accidents. The street- and highway-accident problem of our Nation will be solved only when we understand that there are three phases of the problem, and that we must concentrate upon all three of them if we would stop the accident slaughter. These three phases may be epitomized in three words—engineering, education, and enforcement.

In our accident-prevention program we should set down certain definite and important steps which we should take under each of these activities.

ENGINEERING

First. Build wider, safer highways, eliminating steep hills and sharp turns, banking the wide curves, providing center divisions, safety islands, and under or overpasses where traffic is heaviest.

Second. Carry out a system of uniform traffic signs and signals for the entire Nation, with signs of standard size, shape, and color; similar traffic signal lights; and adequate warning lights, gates, and underpasses for all railroad crossings.

Third. Provide under or overpasses at intersections and special rural walks alongside highways for the pedestrian.

Fourth. Establish uniform road and driving regulations as to turns, speeds, stops, and all other driver-control activities.

Fifth. Continue the efforts to build safer motor vehicles equipped with every possible appliance and device to make them more easily controlled and safe in operation for the average driver.

Sixth. Promote the uniform reporting, investigation, recording, and study of all accidents as a basis for intelligent control and the removal of accident causes.

EDUCATION

First. Organize a country-wide continuous campaign of safety education sponsored by the National Government in cooperation with the accident-prevention agencies, State and municipal authorities, and other organizations.

Second. Direct these educational activities toward teaching individual responsibility for accidents to the driver, the motor-vehicle owner, and the pedestrian.

Third. Aid and participate in the studies being made by organized general committees seeking to determine the most effective ways of controlling all street and highway accidents.

Fourth. Encourage the public schools and all other schools and colleges in the teaching of safety to children and other students.

Fifth. Teach the motor-car driver the critical importance of keeping his motor vehicle in mechanical repair and maintaining in good condition all safety features and appliances.

Sixth. Encourage the widest possible publicity for safety information through all metropolitan and rural newspapers, through the magazines, the radio, and all other sources of publicity.

ENFORCEMENT

First. Uniform enforcement of all traffic laws and ordinances without favoritism and with a strict interpretation of individual responsibility for accident causation.

Second. Adequate examination of new drivers, passage in every State of the standard drivers' license law, with strict interpretation of its license suspension and revoking provisions.

Third. Expansion and improvement of the police and court divisions in each State and community for the detection, arrest, and prompt discipline of all offenders alike, regardless of social standing. Drunken driving and reckless speeding should be severely dealt with.

Fourth. Periodic inspection of the mechanical condition of motor vehicles under State safety requirements, and the barring from the highways of all vehicles which are not maintained at standard.

Fifth. Concentration upon the pedestrian, as well as the driver, to teach him his own responsibilities and compel his obedience to reasonable regulations covering his activities.

Sixth. Continual improvement and perfection of the methods of control to secure the highest possible degree of cooperation between all law-enforcement agencies.

AMENDMENT OF TARIFF ACT OF 1930

Mr. WALSH. Mr. President, I move that the Senate proceed to the consideration of House bill 8099, being a bill to amend certain administrative provisions of the Tariff Act of 1930, and for other purposes.

The PRESIDING OFFICER. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 8099) to amend certain administrative provisions of the Tariff Act of 1930, and for other purposes, which had been reported from the Committee on Finance, with amendments.

Mr. WALSH. I ask unanimous consent that the formal reading of the bill be dispensed with, and that the bill be read for amendment, the amendments of the committee to be first considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALSH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Davis	Johnson, Colo.	Pope
Andrews	Donahey	King	Radcliffe
Ashurst	Duffy	La Follette	Reames
Austin	Ellender	Lodge	Reynolds
Bailey	Frazier	Logan	Russell
Bankhead	George	Lonergan	Schwartz
Barkley	Gerry	Lundeen	Schwellenbach
Bilbo	Gibson	McAdoo	Sheppard
Bone	Gillette	McCarran	Shipstead
Borah	Glass	McGill	Smathers
Brown, Mich.	Green	McKellar	Smith
Bulkley	Hale	McNary	Thomas, Okla.
Bulow	Harrison	Maloney	Thomas, Utah
Burke	Hatch	Miller	Townsend
Byrd	Hayden	Minton	Truman
Byrnes	Herring	Murray	Tydings
Capper	Hill	Neely	Vandenberg
Caraway	Hitchcock	Norris	Wagner
Clark	Holt	O'Mahoney	Walsh
Connally	Hughes	Overton	Wheeler
Copeland	Johnson, Calif.	Pittman	

The PRESIDING OFFICER. Eighty-three Senators have answered to their names. A quorum is present.

Mr. VANDENBERG. Mr. President, I desire to make a brief statement regarding the pending bill. I am obliged to leave the Chamber shortly because of another engagement. I served with the able senior Senator from Massachusetts [Mr. WALSH] on the subcommittee in the preparation of the bill; and, for whatever it is worth, I wish to state my complete agreement with the bill as reported.

Mr. WALSH. Mr. President, the bill is an administrative bill. It proposes to correct errors and remove difficulties which now exist in the administration of the customs law.

The bill passed the House during the closing days of the session last August. Hearings were held by a subcommittee of the Committee on Finance, of which subcommittee I was chairman. The other members were the Senator from Missouri [Mr. CLARK], the Senator from Texas [Mr. CONNALLY], the Senator from Michigan [Mr. VANDENBERG], and the Senator from Wisconsin [Mr. LA FOLLETTE].

I am happy to state that the bill has been subjected to the analysis, scrutiny, and study of all the importers of the country and all the customs lawyers of the country—customs lawyers being a group of attorneys who specialize in the practice and interpretation of customs law before the customs courts. There is virtually a unanimity of opinion in favor of practically every provision of the bill. It is rather extraordinary that a bill of this kind should meet with such unanimity of opinion from all the varying interests.

I am happy to say also that though there were originally differences of opinion, there has been much cooperation. Conferences were held between the Treasury officials and different groups especially interested in the administration of the customs law, and the difficulties have been ironed out to the satisfaction of all the interests concerned.

I desire to compliment the Treasury Department for presenting to us a bill of this character. It is purely an administrative bill. It does not deal with tariff rates or duties. As I understand, it follows the English custom of separating the administrative law from the laws which impose tariff duties. Therefore the bill, when enacted into law, will be a very valuable textbook of the law for all those interested in the administration of our customs laws.

When the amendments are considered I shall be glad to explain those with respect to which there may be any question.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. O'MAHONEY. I understood the Senator to say that the bill is purely an administrative bill, and does not affect any duties.

Mr. WALSH. That is correct. Perhaps I ought to modify that statement. There are three sections of the bill which relate to duties, but they are confined entirely to the correction of duties levied in the original tariff law where there has been a customs court decision. It seemed to all members of the committee and to practicaly everyone who appeared before the committee to be contrary to the intent of Congress.

There are four such commodities dealt with—blankets, felt hats, rugs, and dates. The principle adhered to by the committee was to make absolutely no change in any tariff duty except upon positive evidence that there had been a ruling by the customs court that seemed to be clearly in contradiction of the intent of Congress in the original tariff law. We will discuss each of these later.

Mr. O'MAHONEY. Would it be convenient if I should now invite the Senator's attention to the particular point I have in mind?

Mr. WALSH. I am glad to yield.

Mr. O'MAHONEY. I am advised that the tariff law levies a rate of 23 cents a pound on wools which are imported and used in the manufacture of clothing. By reason of a Treasury regulation, and without any authority of law or any authority of Congress in the fixing of rates, the duty upon noils for carpets which are also used in the manufacture of clothing has been reduced to something like 14 cents. I am told that one of the provisions of the pending bill will have the effect of giving legislative sanction to what now has only the support of a Treasury regulation.

Mr. WALSH. I will be pleased at this point to reply to the Senator from Wyoming and to give him the information that came to me as a member of the committee.

Under the existing tariff law wool to be used in the manufacture of carpets is imported free of duty. In the process of manufacture wool waste becomes a byproduct. The wool waste is resold by the manufacturers of carpets and is used for three different purposes. The higher grade of the wool waste is known as noils and when sold under regulations of the Treasury Department is subjected to a duty of 14 cents per pound.

Another use of such wool waste is for fertilizer, and the wool waste used for such purpose is not subject to duty. I may say, parenthetically, that the larger part of such waste is used for fertilizer purposes.

The third use for this waste is by the railroads in packing the boxes on the axles of the railroad cars. We have all noticed the trainmen or the yard employees of the railroads

placing waste in the boxes at the end of the axles of the railroad wheels in order to prevent friction. Such waste is not subjected to any duty.

The duty of 14 cents a pound which is levied upon waste resold, which is a superior waste and which is classified as noils, was fixed at 14 cents per pound by an involved and algebraic formula of the Treasury Department in an effort to determine how much of that waste relates to the original wool imported. That rate has been in operation for 16 years. We were surprised to learn that the wool interests had no information of the fact that there was a duty levied upon wool waste that appeared to have some value in wool manufacture of cheap clothing.

There have been some instances—I do not think they are numerous—of carpet wool coming into the country and being put through a certain machine that produces waste that may be sold as noils. The Treasury Department, on discovering that abuse, levied the regular wool rate of duty on it.

The question we have before us is, Should we change the 14 cents' duty on noils? If we should do so, there would be a very difficult problem of administration, because the duty on waste wool, I understand, ranges from 8 cents to 37 cents.

One of the proposals made before the committee, which did not seem to be sound, provided for a duty on all waste. That would be imposing a duty upon the farmer who uses the wool waste for fertilizing purposes and also on waste that is useless. According to the evidence before the committee, if any change were made or any attempt to levy a duty upon such waste the manufacturers would simply burn the waste and not use it at all.

The Senate will be interested in the amount. The total amount of carpet wool imported into this country in 1936 was 136,000,000 pounds. Only 136,000 pounds in that year were found to be converted into noils, the 136,000 pounds representing one-tenth of 1 percent of all the imported carpet wool.

An amendment to change that duty of 14 cents to whatever might be the regular duty, ranging between 8 cents and 37 cents, would impose a very laborious and very difficult burden upon the Department.

Mr. O'MAHONEY. Mr. President——

Mr. WALSH. I will yield to the Senator in a moment. The point I wish to impress upon the Senator is that, first of all, we are dealing with an exceedingly small fraction of the wool which finally takes the form of waste.

Mr. O'MAHONEY. I appreciate that, but sometimes the camel gets his nose under the tent. My understanding is that paragraph 1105 of the Tariff Act imposes a rate of 30 cents per pound upon noils if carbonized and 23 cents if not carbonized. The Senator tells me that some of these wastes from carpet wools which are admitted duty free have been found susceptible of being turned into noils, and therefore may be used in the manufacture of clothing. The purpose of the act, of course, was to levy a duty of not less than 23 cents a pound upon such wools. The Treasury by regulation imposes not 23 cents but 14 cents. How does the Treasury reach that figure and what administrative difficulty would there be in collecting 23 cents instead of 14 cents?

Mr. WALSH. The information that comes to me is that the actuaries of the Treasury Department had to be consulted, and after a long and involved study there was worked out a formula which proved to their satisfaction that an average fair rate was 14 cents. Not to have an average fair rate would require a Government inspector to inspect all wool waste and determine whether the rate of duty should be 8 cents or 10 cents or 20 cents or more; and that would be an extremely difficult administrative problem and be expensive to the Government, as the amount of money raised from this tax is very small.

That formula involves determining the volume of waste compared with the total imports of wool for carpet manufacture. The Department asserts that it has been a most difficult problem, but they think they have handled the matter to the satisfaction of all concerned until this bill was taken up. The rate of 14 cents has been in effect for 16 years, and the Department alleges that no question was raised.

Mr. O'MAHONEY. Mr. President, I appreciate the study which the Senator from Massachusetts has given to the subject, and the very full information he is now affording us in response to my inquiry; but the Senator will also recall that when the bill was before the Finance Committee I requested of the committee that representatives of the wool industry be permitted to appear before the committee and discuss this matter. For reasons which were satisfactory to the committee, it was found impossible to grant the hearing at that time; so, if I understand correctly, they were not heard. Am I right in that?

Mr. WALSH. They were heard.

Mr. O'MAHONEY. Later on?

Mr. WALSH. Yes. A subcommittee of the Finance Committee was named to conduct hearings. I was named chairman of the subcommittee. That is why I am in charge of the bill. We conducted very extensive hearings for about 10 days; and Mr. Marshall, of the National Wool Growers' Association, and Mr. Fawcett, of the Wool Distributors' Association, were heard.

Mr. O'MAHONEY. I was about to ask the Senator whether it would be agreeable to him to accept, at least for the purpose of allowing it to go to conference, an amendment which I shall propose, in order that I may have an opportunity of going over the hearings and developing the facts.

Mr. WALSH. I shall be pleased to accept such an amendment to go to conference, and confer with the Senator afterward; and if any improvement can be made over what the committee has reported, I shall be pleased to have it made.

Mr. O'MAHONEY. I shall offer the amendment a little bit later.

Mr. WALSH. I feel that it is not the function of a Senator reporting a bill to stand on the floor of the Senate and resist every amendment offered on the floor. I do not believe in that. I believe it is the function of the Senator reporting a bill to accept the views of other Senators who have amendments to offer, and to try to find merit in them if he can. That is the attitude I take.

Mr. O'MAHONEY. I am very grateful to the Senator. I shall offer the amendment later.

Mr. WALSH. I trust the Senator's amendment will not include the wastes that are used for fertilizers, and so forth.

Mr. O'MAHONEY. My purpose would be to confine the amendment to wastes which are used for clothing.

Mr. WALSH. I see at this time no objection to an amendment of that kind.

Now, Mr. President, I ask to have the committee amendments acted on.

The PRESIDING OFFICER (Mr. REAMES in the chair). The clerk will state the amendments reported by the committee.

The first amendment of the Committee on Finance was, on page 1, line 4, after the word "of", to strike out "1937" and insert "1938", so as to read:

Be it enacted, etc., That this act may be cited as the "Customs Administrative Act of 1938."

The amendment was agreed to.

The next amendment was, on page 1, line 5, after "(k)", to strike out "and 557" and insert "557, and 562"; in line 7, after "(k)", to strike out "and 1557" and insert "1557, and 1562"; in line 9, after the word "edition", to strike out "Supp. II" and insert "Supp. III"; and on page 2, line 2, before the word "wherever", to insert "and before the words 'or the island of Guam'", so as to make the section read:

SEC. 2. Sections 1, 201, 401 (k), 557, and 562 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, secs. 1001, 1201, 1401 (k), 1557, and 1562) and section 401 (a) of the Anti-Smuggling Act (U. S. C., 1934 ed., Supp. III, title 19, sec. 1709 (a)) are hereby amended by inserting "Wake Island, Midway Islands, Kingman Reef," before the words "and the island of Guam" and before the words "or the island of Guam" wherever such words appear in each such section.

The amendment was agreed to.

The next amendment was, on page 2, line 16, after the word "article" and the period, to strike out "The" and insert "Except when the method of marking an article is specifically provided in this act, the", so as to read:

"(a) Marking of articles: Except as hereinafter provided, every article of foreign origin (or its container, as provided in subsection (b) hereof) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. Except when the method of marking an article is specifically provided in this act, the Secretary of the Treasury may by regulations—

The amendment was agreed to.

The next amendment was, on page 2, line 22, after the word "prescribe", to strike out "the" and insert "any reasonable"; in line 25, after the word "other", to insert "reasonable"; in the same line, after the word "method", to strike out "whatsoever"; in the same line, after the word "and", to strike out "the" and insert "a reasonably conspicuous"; and on page 3, line 2, after the word "the", to strike out "mark" and insert "marking"; so as to read:

(1) Determine the character of words and phrases or abbreviations thereof which shall be acceptable as indicating the country of origin and prescribe any reasonable method of marking, whether by printing, stenciling, stamping, branding, labeling, or by any other reasonable method, and a reasonably conspicuous place on the article (or container) where the marking shall appear.

The amendment was agreed to.

The next amendment was, on page 4, line 23, after the word "origin", to insert a colon and the following proviso: "*Provided*, That this subdivision (J) shall not apply to sawed lumber and timbers, telephone, trolley, electric-light, and telegraph poles of wood, and bundles of shingles"; so as to read:

(J) Such article is of a class or kind with respect to which the Secretary of the Treasury has given notice by publication in the weekly Treasury Decisions within 2 years after July 1, 1937, that articles of such class or kind were imported in substantial quantities during the 5-year period immediately preceding January 1, 1937, and were not required during such period to be marked to indicate their origin: *Provided*, That this subdivision (J) shall not apply to sawed lumber and timbers, telephone, trolley, electric-light, and telegraph poles of wood, and bundles of shingles.

The amendment was agreed to.

The next amendment was, on page 5, line 17, after the word "section" and the period to insert "Usual containers in use as such at the time of importation shall in no case be required to be marked to show the country of their own origin", so as to read:

(b) Marking of containers: Whenever an article is excepted under subdivision (3) of subsection (a) of this section from the requirements of marking, the immediate container, if any, of such article, or such other container or containers of such article as may be prescribed by the Secretary of the Treasury, shall be marked in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of such article, subject to all provisions of this section, including the same exceptions as are applicable to articles under subdivision (3) of subsection (a). If articles are excepted from marking requirements under clause (E), (F), (G), or (H) of subdivision (3) of subsection (a) of this section, their usual containers shall not be subject to the marking requirements of this section. Usual containers in use as such at the time of importation shall in no case be required to be marked to show the country of their own origin.

The amendment was agreed to.

The next amendment was, on page 7, line 1, after the word "section" to insert "or until the amount of duty estimated to be payable under subsection (c) of this section has been deposited", so as to read:

(d) Delivery withheld until marked: No imported article held in customs custody for inspection, examination, or appraisement shall be delivered until such article and every other article of the importation (or their containers), whether or not released from customs custody, shall have been marked in accordance with the requirements of this section or until the amount of duty estimated to be payable under subsection (c) of this section has been deposited. Nothing in this section shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law.

The amendment was agreed to.

The next amendment was, on page 7, line 22, after the word "craft", to strike out "teams and saddle" and insert "and"; in line 25, before the word "for", to insert "(A)"; on page 8, line 1, before the word "for", to insert "(B)"; in line 10, after the word "of", to insert "horses,"; in line 15, after the word "such", to insert "horses,"; in line 16, after the word "to", to insert "horses,"; in line 18, after the word "such", to insert "horse,"; and in line 20, after the word "such", where it occurs the second time, to insert "horse,", so as to make the section read:

SEC. 4. Subdivisions (1), (5), and (6) of section 308 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1308) are hereby amended to read as follows:

"(1) Articles to be repaired, altered, or otherwise changed in condition by processes which do not result in articles manufactured or produced in the United States;

"(5) Automobiles, motorcycles, bicycles, airplanes, airships, balloons, boats, racing shells, and similar vehicles and craft, and horses, and the usual equipment of the foregoing; all the foregoing which are brought temporarily into the United States by nonresidents (A) for the purpose of taking part in races or other specific contests, or (B) for the transportation of such nonresidents, their families and guests, and such incidental carriage of articles as may be necessary and appropriate to the purposes of the journey, but not to be used for the transportation of persons or articles for hire nor in any case primarily for the carriage of articles (but nothing in this act shall be construed as altering the customary exceptions of vehicles and other instruments of international traffic from the application of the customs laws); and in the case of horses, vehicles, and craft entered under this subdivision collectors of customs may, under such regulations as the Secretary of the Treasury may prescribe, defer the exaction of a bond for not to exceed 90 days (or 6 months in the case of such horses, vehicles, and craft from a country which accords a similar privilege to horses, vehicles, and craft from the United States) after the date of importation, but unless such horse, vehicle, or craft is exported or the bond is given within the period of such deferment, such horse, vehicle, or craft shall be subject to forfeiture;

"(6) Locomotives and other railroad equipment brought temporarily into the United States for use in clearing obstructions, fighting fires, or making emergency repairs on railroads within the United States, or for use in transportation otherwise than in international traffic when the Secretary of the Treasury finds that the temporary use of foreign railroad equipment is necessary to meet an emergency;".

and the period at the end of subdivision (8) is changed to a semicolon and a new subdivision is added at the end of such section 308 to read as follows:

"(9) Professional equipment, tools of trade, and camping equipment imported for their own use by nonresidents sojourning temporarily in the United States, and articles of special design for temporary use exclusively in connection with the manufacture or production of articles for export."

The amendment was agreed to.

The next amendment was, on page 9, after line 13, to insert a new section, as follows:

SEC. 5. (a) Section 309 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1309) is hereby amended to read as follows:

"SEC. 309. Supplies for certain vessels and aircraft.

"(a) Exemption from customs duties and internal-revenue tax: Articles of foreign or domestic manufacture or production may, under such regulations as the Secretary of the Treasury may prescribe, be withdrawn from bonded warehouses or bonded manufacturing warehouses free of duty or internal-revenue tax for supplies (not including equipment) of vessels of war, in ports of the United States, of any nation which may reciprocate such privilege toward the vessels of war of the United States in its ports, or for supplies (not including equipment) of vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or for supplies (not including equipment) of aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or for supplies (including equipment), maintenance, or repair of aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted.

"(b) Drawback: Articles withdrawn from bonded warehouses or bonded manufacturing warehouses and articles of domestic manufacture or production, laden as supplies upon any such foreign vessel or any such vessel or aircraft of the United States or laden as supplies (including equipment) upon, or used in the maintenance or repair of, any such foreign aircraft, shall be considered to be exported within the meaning of the drawback provisions of this act.

"(c) Articles removed in, or returned to, the United States: Any article exempted from duty or tax, or in respect of which drawback has been allowed, under this section or section 317 of

this act and thereafter removed in the United States from any vessel or aircraft, or otherwise returned to the United States, shall be treated as an importation from a foreign country.

"(d) Reciprocal privileges: The privileges granted by this section and section 317 of this act in respect of aircraft registered in a foreign country shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted by this section and such section 317 shall not apply thereafter in respect of aircraft registered in that foreign country."

(b) Section 317 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1317, and title 26, sec. 897 (b)) is amended by changing the caption thereof to read "tobacco products—supplies for aircraft."; by designating the present paragraph thereof as subsection (a); and by adding thereto a new subsection (b) to read as follows:

"(b) The shipment or delivery of any merchandise for use as supplies (including equipment) upon, or in the maintenance or repair of, aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted, shall be deemed an exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such merchandise without the payment of duty or internal-revenue tax."

(c) This section shall take effect on the day following the enactment of this act.

The amendment was agreed to.

The next amendment was, on page 14, line 5, to change the section number from 8 to 9, and in line 23, after the word "interest" and the period, to insert " 'Vessel' or 'vehicle' as used herein shall not be construed to include a highway bridge or a highway tunnel, nor shall the maintenance or operation of such a bridge or of such a tunnel constitute the owner or operator thereof a common carrier within the meaning or application of this section."; so as to make the section read:

SEC. 9. So much of the last sentence of section 451 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1451) as precedes the words "gives a bond in a penal sum to be fixed by the collector" is hereby amended to read as follows: "Upon a request made by the owner, master, or person in charge of a vessel or vehicle, or by or on behalf of a common carrier or by or on behalf of the owner or consignee of any merchandise or baggage, for overtime services of customs officers or employees at night or on a Sunday or holiday, the collector shall assign sufficient customs officers or employees if available to perform any such services which may lawfully be performed by them during regular hours of business, but only if the person requesting such services"; and the said section 451 is further amended by adding at the end thereof the following: "Nothing in this section shall be construed to impair the existing authority of the Treasury Department to assign customs officers or employees to regular tours of duty at nights or on Sundays or holidays when such assignments are in the public interest. 'Vessel' or 'vehicle' as used herein shall not be construed to include a highway bridge or a highway tunnel, nor shall the maintenance or operation of such a bridge or of such a tunnel constitute the owner or operator thereof a common carrier within the meaning or application of this section."

The amendment was agreed to.

The next amendment was, at the top of page 18, to insert a new section, as follows:

SEC. 13. Section 485 (f) of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1485 (f) is hereby amended by changing the last comma therein to a period; by striking out the words "or by any other person specifically authorized by any officer of such corporation to make the same"; and by inserting in lieu of the deleted words a new sentence to read as follows: "Whether the consignee is an individual, a partnership, or a corporation, the declaration may be made by any person who has knowledge of the facts and who is specifically authorized by such individual, a member of such partnership, or an officer of such corporation to make such declaration."

The amendment was agreed to.

The next amendment was, on page 19, line 20, to change the section number from 14 to 16; on page 20, line 1, after the word "merchandise" and the semicolon, to insert "by adding after the third sentence thereof the following new sentence: 'All such special regulations or instructions shall be published in the weekly Treasury Decisions within 15 days after issuance and before the liquidation of any entries affected thereby.' "; and on page 20, line 8, after the word "appraisement", to insert "made after the effective date of the Customs Administrative Act of 1938", so as to read:

SEC. 16. (a) Section 499 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1499) is hereby further amended by inserting after the word "regulation" in the third sentence thereof the following: "or instruction, the application of which may be restricted to one or more individual ports or to one or more importations or one or more classes of merchandise,"; by adding after the third sentence thereof the following new sentence: 'All such special regulations or instructions shall be published in the weekly Treasury Decisions within 15 days after issuance and before the liquidation of any entries affected thereby."; and by adding at the end of such section the following new paragraph:

"No appraisement made after the effective date of the Customs Administrative Act of 1938 shall be held invalid on the ground that the required number of packages or the required quantity of the merchandise was not designated for examination or, if designated, was not actually examined, unless the party claiming such invalidity shall establish that merchandise in the packages or quantities not designated for examination, or not actually examined, was different from that actually examined and that the difference was such as to establish the incorrectness of the appraiser's return of value; and then only as to the merchandise for which the value returned by the appraiser is shown to be incorrect."

The amendment was agreed to.

The next amendment was, on page 20, after line 20, to strike out:

(b) Section 501 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1501) is hereby amended by striking out the fourth sentence of the first paragraph thereof and inserting in lieu thereof the following: "Every such appeal shall be transmitted with the entry and the accompanying papers by the collector to the United States Customs Court and shall be assigned to one of the judges, who shall in every case, after affording the parties an opportunity to be heard on the merits, determine the value of the merchandise from the evidence in the entry record and that adduced at the hearing. Appraising and examining officers shall be competent to testify at the hearing as to facts within their knowledge or obtained from records and memoranda made in the office of the appraiser with respect to the merchandise under consideration, or like or similar merchandise, and as to conclusions reached by them in the course of their official duties concerning the merchandise notwithstanding that the original appraisement may for any reason be held invalid or void and that the merchandise or samples thereof be not available for reexamination."; and such section 501 is further amended by designating the present two paragraphs thereof as subsections (a) and (b), respectively, and by adding after such subsections a new subsection (c) to read as follows:

"(c) If in the final determination of a protest, the appraisement of merchandise is found to have been invalid, the proper dutiable value of such merchandise shall be determined by the United States Customs Court in the manner provided for by this section."

And in lieu thereof to insert the following:

(b) Section 501 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1501) is hereby amended by striking out the fourth sentence of the first paragraph thereof and inserting in lieu thereof the following: "Every such appeal shall be transmitted with the entry and the accompanying papers by the collector to the United States Customs Court and shall be assigned to one of the judges, who shall in every case, notwithstanding that the original appraisement may for any reason be held invalid or void and that the merchandise or samples thereof be not available for examination, after affording the parties an opportunity to be heard on the merits, determine the value of the merchandise from the evidence in the entry record and that adduced at the hearing."; and such section 501 is further amended by designating the present two paragraphs thereof as subsections (a) and (b), respectively, and by adding after such subsections a new subsection (c) to read as follows:

"(c) If upon the hearing of a protest, the United States Customs Court shall declare an appraisement of merchandise made after the effective date of the Customs Administrative Act of 1938 to have been invalid or void, it shall remand the matter to a single judge, who shall proceed to determine the proper dutiable value of such merchandise in the manner provided for by this section. In such proceeding no presumption of correctness shall attach to the invoice or entered values."

The amendment was agreed to.

The next amendment was, on page 23, line 3, to change the section number from 15 to 17; on page 25, line 23, after the word "decision" and the period, to insert "Every proceeding arising under this subsection shall be given precedence over other cases on the dockets of the United States Customs Court and the United States Court of Customs and Patent Appeals, and shall be assigned for hearing and trial at the earliest practicable date and expedited in every

way"; and on page 26, line 10, after the word "commenced", to insert "by the filing of a complaint", so as to make the section read:

SEC. 17. (a) Subsection (b) of section 516 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1516 (b)) is hereby amended to read as follows:

"(b) Classification: The Secretary of the Treasury shall, upon written request by an American manufacturer, producer, or wholesaler, furnish the classification of, and the rate of duty, if any, imposed upon, designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him. If such manufacturer, producer, or wholesaler believes that the proper rate of duty is not being assessed, he may file a complaint with the Secretary, setting forth a description of the merchandise, the classification, and the rate or rates of duty he believes proper, and the reasons for his belief. If the Secretary decides that the classification of, or rate of duty assessed upon, the merchandise is not correct, he shall notify the collectors as to the proper classification and rate of duty and shall so inform the complainant, and such rate of duty shall be assessed upon all such merchandise entered for consumption or withdrawn from warehouse for consumption after 30 days after the date such notice to the collectors is published in the weekly Treasury Decisions. If the Secretary decides that the classification and rate of duty are correct, he shall so inform the complainant. If dissatisfied with the decision of the Secretary, the complainant may file with the Secretary, not later than 30 days after the date of such decision, notice that he desires to protest the classification of, or rate of duty assessed upon, the merchandise. Upon receipt of such notice from the complainant, the Secretary shall cause publication to be made of his decision as to the proper classification and rate of duty and of the complainant's desire to protest, and shall thereafter furnish the complainant with such information as to the entries and consignees of such merchandise, entered after the publication of the decision of the Secretary at the port of entry designated by the complainant in his notice of desire to protest, as will enable the complainant to protest the classification of, or rate of duty imposed upon, such merchandise in the liquidation of such an entry at such port. The Secretary shall direct the collector at such port to notify such complainant immediately when the first of such entries is liquidated. Within 30 days after the date of mailing to the complainant of notice of such liquidation, the complainant may file with the collector at such port a protest in writing setting forth a description of the merchandise and the classification and rate of duty he believes proper. Notwithstanding such protest is filed, merchandise of the character covered by the published decision of the Secretary, when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, rendered under the provisions of subsection (c) of this section, not in harmony with the published decision of the Secretary, shall be classified and the entries liquidated in accordance with such decision of the Secretary, and, except as otherwise provided in this act, the liquidations of such entries shall be final and conclusive upon all parties. If the protest of the complainant is sustained in whole or in part by a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication of such court decision, shall be subject to classification and assessment of duty in accordance with the final judicial decision on the complainant's protest, and the liquidation of entries covering such merchandise so entered or withdrawn shall be suspended until final disposition is made of such protest, whereupon such entries shall be liquidated, or if necessary, reliquidated in accordance with such final decision. Every proceeding arising under this subsection shall be given precedence over other cases on the dockets of the United States Customs Court and the United States Court of Customs and Patent Appeals, and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way."

(b) The provisions of subsection (b) of section 516 of the Tariff Act of 1930, as amended by this act, shall apply only in the case of complaints filed after the effective date of this act. The provisions of subsection (b) of section 516 of the Tariff Act of 1930, as in force prior to the effective date of this act, shall continue in force with respect to any proceedings commenced by the filing of a complaint thereunder, except that upon the expiration of 30 days after the effective date of this act, or upon the expiration of 30 days after the date of a decision of the Secretary adverse to the complainant, whichever is the later, any such proceedings in which a protest has not been duly filed shall be deemed to have been terminated unless the complainant shall have filed with the Secretary after the effective date of this act a notice that he desires to protest the classification of, or rate of duty assessed upon, the merchandise.

(c) The provisions of subsection (b) of section 516 of the Tariff Act of 1930, as amended by this act, shall not apply with respect to any article of a class or kind which is named or described in any obligation undertaken by the United States in a foreign trade agreement entered into under section 350 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1351).

The amendment was agreed to.

The next amendment was, on page 28, after line 17, to insert the following new section:

SEC. 19 (a) Section 523 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1523) is hereby amended by deleting the third paragraph thereof.

(b) Section 2626 of the Revised Statutes, as amended (U. S. C., 1934 edition, title 19, sec. 39), is hereby repealed.

The amendment was agreed to.

The next amendment was, on page 29, line 19, to change the section number from 18 to 21, and on page 30, line 4, after the word "laws" and the period to insert "Nothing in this section shall be construed to limit or restrict the jurisdiction of the United States Customs Court or the United States Court of Customs and Patent Appeals.", so as to make the section read:

SEC. 21. The Tariff Act of 1930 is hereby amended by adding at the end of part III of title IV thereof a new section, to read as follows:

"SEC. 528. Taxes not to be construed as duties.

"No tax or other charge imposed by or pursuant to any law of the United States shall be construed to be a customs duty for the purpose of any statute relating to the customs revenue, unless the law imposing such tax or charge designates it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws. Nothing in this section shall be construed to limit or restrict the jurisdiction of the United States Customs Court or the United States Court of Customs and Patent Appeals."

The amendment was agreed to.

The next amendment was, on page 30, line 8, to change the section number from 19 to 22, and in line 15, after the word "prescribe" and the period, to strike out "If such merchandise consists of a motor vehicle or chassis therefor, it may, under such regulations as the Secretary of the Treasury shall prescribe, be entered for transit through the United States to a foreign country, under its own power or otherwise, without appraisement or the payment of duties. No vehicle or chassis entered under the authority of this section shall be used while in transit for the carriage of merchandise or passengers for hire", so as to make the section read:

SEC. 22. Section 553 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1553) is hereby amended by adding the following at the end thereof: "In places where no bonded common-carrier facilities are reasonably available, such merchandise may be so transported otherwise than by a bonded common carrier under such regulations as the Secretary of the Treasury shall prescribe."

The amendment was agreed to.

The next amendment was, on page 30, line 23, to change the section number from "20" to "23", and on page 31, line 1, after the word "words", to insert "or elsewhere", so as to make the section read:

SEC. 23. (a) Section 557 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1557) is hereby further amended by inserting before the colon preceding the proviso in the first paragraph thereof the words "or elsewhere, or for transfer to another bonded warehouse at the same port"; by eliminating the phrase "99 percent of" from the last sentence of the said paragraph; by designating the present paragraphs thereof as subsections (a) and (c), respectively; and by inserting between such subsections a new subsection (b) to read as follows:

"(b) The right to withdraw any merchandise entered in accordance with subsection (a) of this section for the purposes specified in such subsection may be transferred upon compliance with regulations prescribed by the Secretary of the Treasury. So long as any such transfer remains unrevoked the transferee shall have, with respect to the merchandise the subject of the transfer, all rights to file protests, and to the privileges provided for in this section and in sections 562 and 563 of this act which would otherwise be possessed by the transferor. The transferee shall also have the right to receive all lawful refunds of moneys paid by him to the United States with respect to the merchandise and no revocation of any transfer shall deprive him of this right. Any such transfer may be made irrevocable by the filing of a bond of the transferee in such amount and with such conditions as the Secretary of the Treasury shall prescribe, including an obligation to pay all unpaid regular, increased, and additional duties, charges, and exactions on the merchandise the subject of the transfer. Upon the filing of such bond the transferor shall be relieved from liability for the payment of duties, charges, and exactions on the merchandise the subject of the transfer, but shall remain bound by all other unsatisfied conditions of his bond."

(b) On and after the effective date of this act, this section shall be effective with respect to merchandise entered for warehouse prior to, as well as after, such date.

The amendment was agreed to.

The next amendment was, on page 34, after line 6, to insert the following new section:

SEC. 26. Section 562 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1562) is amended by adding the following new sentence at the end thereof: "Under such regulations as the Secretary of the Treasury shall prescribe, imported merchandise which has been entered and which has remained in continuous customs custody may be manipulated in accordance with the provisions of this section under customs supervision and at the risk and expense of the consignee, but elsewhere than in a bonded warehouse, in cases where neither the protection of the revenue nor the proper conduct of customs business requires that such manipulation be done in a bonded warehouse."

The amendment was agreed to.

The next amendment was, on page 39, line 1, after the words "in lieu of", to insert "sureties on"; so as to read:

(e) The Secretary of the Treasury is authorized to permit the deposit of money or obligations of the United States, in such amount and upon such conditions as he may by regulation prescribe, in lieu of sureties on any bond required or authorized by a law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce.

The amendment was agreed to.

The next amendment was, on page 39, after line 4, to insert a new section, as follows:

SEC. 32. Paragraph 741 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1001, par. 741) is hereby amended by deleting the words "in packages weighing with the immediate container" and inserting in lieu thereof the words "packed in units of any description weighing (with the immediate container, if any)".

The amendment was agreed to.

The next amendment was, on page 39, after line 10, to insert a new section, as follows:

SEC. 33. Paragraph 813 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1001, par. 813) is hereby amended by deleting the word "five" and inserting in lieu thereof the word "thirty".

The amendment was agreed to.

The next amendment was, on page 42, line 17, to change the section number from 29 to 35, and in the same line, before the word "Paragraph" to insert "(a)"; and after line 20, to insert:

(b) Paragraph 1115 (b) of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1001, par. 1115 (b)), as modified by the President's proclamation of March 16, 1931 (Proclamation Numbered 1941, 47 Stat. 2438), is hereby amended by striking out the words "manufactured wholly or in part of wool felt" and inserting in lieu thereof the words "wholly or in chief value of wool but not knit or crocheted nor made in chief value of knit, crocheted, or woven material,".

So as to make the section read:

SEC. 35. (a) Paragraph 1111 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1001, par. 1111) is hereby amended by deleting therefrom the phrase "of blanketing,".

(b) Paragraph 1115 (b) of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1001, par. 1115 (b)), as modified by the President's proclamation of March 16, 1931 (Proclamation Numbered 1941, 47 Stat. 2438), is hereby amended by striking out the words "manufactured wholly or in part of wool felt" and inserting in lieu thereof the words "wholly or in chief value of wool but not knit or crocheted nor made in chief value of knit, crocheted, or woven material,".

Mr. POPE. Mr. President, will the Senator from Massachusetts explain the change at the bottom of page 42 and the top of page 43—just what the change is for?

Mr. WALSH. Mr. President, the tariff law was interpreted by the customs officials to place the same duty upon felt hats as upon felt. In fact, the tariff law fixes the rate of duty on felt and felt hats. There were imported into this country a number of felt hats which were made in this fashion: The wool yarn was rapidly revolved around an apparatus in the shape of a hat, and then the wool was pressed, making at the same time a felt hat and felt. The courts decided that that was not a hat manufactured of felt; that the process of making the hat was both making felt and making the hat. This amendment is to correct that decision, which the members of the committee and everybody who appeared before the committee believe was not the intention of the Congress.

Mr. BORAH. Mr. President, has that matter reached a final decision?

Mr. WALSH. Yes.

Mr. BORAH. I had understood that it was still in litigation.

Mr. WALSH. The time for appeal has expired, and no appeal has been taken.

Mr. POPE. Mr. President, the last words in the amendment, "but not knit or crocheted nor made in chief value of knit, crocheted, or woven material"——

Mr. WALSH. That is the present law.

Mr. POPE. The other words, "in part of wool felt" are the substitution?

Mr. WALSH. Yes; the words which are quoted are part of the present law.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment reported by the committee.

The next amendment was, on page 46, line 10, to change the section number from 31 to 37; in line 11, after the word "edition", to strike out "Supp. II", and insert "Supp. III", and in line 17, after the word "gallon", to insert "and including not more than 100 cigars", so as to make the section read:

SEC. 37. Paragraph 1798 of the Tariff Act of 1930, as amended (U. S. C., 1934 ed., Supp. III, title 19, sec. 1201, par. 1798), is hereby further amended by striking out the third and fourth provisos thereof and inserting in lieu thereof the following: "*Provided further*, That up to but not exceeding $100 in value of articles (including distilled spirits, wines, and malt liquors aggregating not more than 1 wine gallon and including not more than 100 cigars) acquired abroad by such residents of the United States as an incident of the foreign journey for personal or household use or as souvenirs or curios, but not bought on commission or intended for sale, shall be free of duty: *Provided further*, That the exemption authorized by the preceding proviso shall apply only to articles declared in accordance with regulations to be prescribed by the Secretary of the Treasury by a returning resident who has remained beyond the territorial limits of the United States for a period of not less than 48 hours and who has not taken advantage of the said exemption within the 30-day period immediately preceding his return to the United States: *And provided further*, That all articles exempted by this paragraph from the payment of duty shall also be exempt from the payment of any internal-revenue taxes."

The amendment was agreed to.

The PRESIDING OFFICER. That concludes the committee amendments.

Mr. BORAH. Mr. President, I understood the Senator from Massachusetts, in his opening statement, to say that the bill does not undertake to change any of the rates.

Mr. WALSH. That is correct. I am now about to offer an amendment, however, which might indirectly be considered to change rates; but after the exhibit is displayed here I think Senators will take a different view of the matter. I will ask to have one of the pages come forward and unroll the carpets I have here.

There are three tariff subject matters in the bill. The Senate has heard the one about felt and felt hats. Another is the change in regard to dates. Both the Senators from Arizona are deeply interested in dates. Dates have been imported into this country in bulk at a fixed tariff duty. By special act we provided a different duty on dates that are in packages. We provided that such dates should be handled in a sanitary way in this country.

There came a time when dates began to come into this country apparently in bulk but in reality in single packages. Between the bricks of dates were just layers of paper. All one had to do was to take out the bricks of dates and fold them in pieces of paper and sell them as small packages, violating the spirit of the law, which required compliance with sanitary regulations in the handling of dates. It also enabled the importer to avoid paying the duty which applies to dates made in the form of bricks, which is different from that applying to bulk dates.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. CONNALLY. The Senator has referred to bricks. I think the act provided that dates in packages, which were put up in a certain sanitary way, should bear a heavier rate, for the reason that a great many of those engaged in the industry in this country are processors who import the bulk dates from abroad, and then process them and treat them and put them up in nice little packages. Under the regulations providing how they should be put up, a way was found by which the dates could be imported in a big box—and it must be remembered that bulk dates bear a lower rate in order to give the benefit to the domestic processor. The importer would bring in a whole bale of dates, which, as the Senator from Massachusetts has suggested, were separated into what might be called "bricks" by putting layers of oiled paper between the bricks, but to all intents and purposes they were still bulk dates. Under the Treasury ruling they were admitted at the lower rate of duty, and the processors in Ohio and other places are complaining that they will be put out of business unless the lower duty is restricted to the plain bulk dates, and the higher rate left for the processed dates.

Mr. WALSH. I thank the Senator for his amplification. Now I wish to call attention to the rugs which I have asked two of our pages to exhibit to the Senate, about which I desire to offer an amendment. I suppose all will agree that these are rugs.

Mr. McADOO. Mr. President, I wish to ask a question about dates.

Mr. WALSH. Very well.

Mr. McADOO. Does this bill reduce the duty on the processed dates?

Mr. CONNALLY. No.

Mr. WALSH. It prevents an evasion of the duty by providing that the dates which are ready for the market shall be subjected to the processed-date provision of the law.

Mr. McADOO. It means an increase in the duty on dates to that extent?

Mr. WALSH. Yes. It is a correction of a wrong interpretation by the courts.

Mr. President, as I stated, I suppose all will agree that these are rugs. Senators will note the fringe on the edge of this larger rug. By pulling a string one can take that fringe off, and have a plain or ordinary rug. These are imported rugs, and because they have that fringe on them they have been classified as embroideries. The amendment I propose to offer is to correct that classification, and to have them treated as rugs, and subjected to the duty on rugs.

This is a very clever device. By just pulling a string one can remove this fringe and have a rug. I think that explains some of the attempts which are made to evade tariff duties in different ways.

Mr. NORRIS. Mr. President, has any court ruled that because the rug which the page is holding has that fringe on the end, it is not a rug any longer, but is embroidery? Is that the ruling of the court?

Mr. WALSH. The court has ruled that the placing of the embroidery on the rug——

Mr. NORRIS. That is not embroidery—it is just a little piece of fringe, is it not? Do they call it embroidery? If the court says it is embroidery, of course, I admit it is embroidery. I will not argue with the court. [Laughter.]

Mr. WALSH. The court has so ruled, and placed these two very rugs in the category of embroideries.

Mr. NORRIS. One of the objects of the bill is to overrule the court and to say that this is not embroidery; that it is still a rug?

Mr. WALSH. Yes; the purpose of the amendment which I intend to offer is to declare that these are still rugs.

Mr. NORRIS. Oh, yes. That makes it perfectly plain.

Mr. WALSH. And that it was the intent of Congress, when it passed the tariff act, to have them treated as rugs and not as embroidery.

Mr. NORRIS. We are going to overrule the court?

Mr. WALSH. That is what we are going to do.

Mr. O'MAHONEY. Which has the higher rate?

Mr. WALSH. The rug.

Mr. BONE. Has any court in this country ruled that these things are not rugs but are embroideries?

Mr. WALSH. That is the ruling.

Mr. LOGAN. Mr. President, I will be glad to furnish the Senator from Washington a copy of the opinion. The court has ruled that these are embroideries and not rugs.

Mr. BONE. What court was it?

Mr. LOGAN. I would not like to call names.

Mr. BORAH. Is it not for Congress to correct the court if the court makes a mistake? [Laughter.]

Mr. WALSH. That is correct.

Mr. NORRIS. This is an instance where a legislative act is superior to a court ruling. We are just overruling the court.

Mr. BONE. I may say to the Senator from Massachusetts that the vagaries of courts are beyond human understanding, if any court could ever declare these to be embroideries.

Mr. BORAH. The Senator will have to admit that this fringe is embroidery.

Mr. BONE. A bit of fringe on the end of the rug makes the whole rug embroidery?

Mr. BORAH. You pull a string here and take it off. If that fringe is not embroidery, I do not know what would be.

Mr. BONE. Someone ought to pull the string on the particular court which rendered that decision. [Laughter.]

Mr. WALSH. Mr. President, I desire now to submit the committee amendment dealing with this subject of rugs.

Mr. ASHURST. Mr. President, before the able Senator passes from that subject I wish to know what importer seeks this advantage, and what nation or what country is guilty of the attempt to perpetrate this fraud? Whence do these rugs or embroideries come?

Mr. WALSH. They come from Persia and oriental countries.

Mr. BORAH. We will correct it by a reciprocal-trade agreement. [Laughter.]

Mr. ASHURST. Mr. President, since the able Senator from Idaho has suggested that there might be correction through some reciprocal-trade agreement, I feel that it is my duty to be sure that in the pending bill there is no provision extending the powers of any person in this Government to make additional reciprocal-trade agreements.

Mr. BORAH. They do not need any.

Mr. ASHURST. They do not need any, but there is nothing here which would ratify it or grant any person the power to make any additional reciprocal-trade agreements?

Mr. WALSH. I think that if I made such a proposal I might as well resign my seat, in view of protests being made in Massachusetts against some of the reciprocal-trade agreements.

Mr. NORRIS. If the Senator resigns his seat, he will be qualified to go on the bench at once.

Mr. ASHURST. If I should without protest permit any more reciprocal-trade agreements to be made, my constituents would hand me my resignation. [Laughter.]

Mr. WALSH. I am sure the Senator from Nebraska would not want me to leave the Senate for the bench.

Mr. NORRIS. No; I would not.

Mr. WALSH. Mr. President, I send to the desk an amendment dealing with the subject we have been discussing.

The PRESIDING OFFICER (Mr. HILL in the chair). The Senator from Massachusetts offers an amendment on behalf of the committee, which the clerk will report.

The LEGISLATIVE CLERK. On page 43, between lines 4 and 5, it is proposed to insert the following:

(c) Paragraph 1529 (a) of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1001, par. 1529 (a)) is hereby amended by inserting "1116 (a)" after the figure "1111."

The amendment was agreed to.

Mr. WALSH. Mr. President, I offer another brief amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 43, line 21, after the word "staves", it is proposed to insert the words "produced in the United States."

The amendment was agreed to.

Mr. WALSH. I offer one other amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 9, lines 22 and 23, it is proposed to strike out the words "bonded warehouses or bonded manufacturing warehouses" and to insert "continuous custody"; and on page 10, lines 14 and 15, to strike out the words "bonded warehouses or bonded manufacturing warehouses" and insert "continuous custody."

The PRESIDING OFFICER. The Chair calls the attention of the Senator from Massachusetts to the fact that it will first be necessary to reconsider the vote by which the committee amendment on page 9 was agreed to.

Mr. WALSH. Mr. President, I make that request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the vote by which the amendment on page 9, commencing in line 14, was agreed to is reconsidered, and the question is on agreeing to the amendment to the committee amendment offered by the Senator from Massachusetts.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. WALSH. Mr. President, I now call attention to pages 46 and 47 of the bill. Under existing law an American traveler can purchase while on a sojourn abroad all the goods he desires to purchase, but on his return to the United States he is allowed to bring in free of duty only $100 worth of goods purchased in foreign countries.

There are two exceptions to the general law. One exception was enacted some years ago, limiting to much less than $100 the amount of liquor one could bring in. Through petitions from the Senators representing cigar-manufacturing States, your committee has placed cigars in the category with liquors, and limited the number of cigars which can be brought in free of duty to 100 cigars, instead of allowing $100 worth to be brought in free of duty.

We have incorporated also in the pending bill a very important amendment, about which there is perhaps more controversy than about any other. We have denied the benefit of the privilege of bringing in free of duty $100 worth of goods to the traveler who remains out of the confines of the United States for less than 48 hours. In other words, the man or woman who crosses the Canadian border or the Mexican border cannot claim this privilege unless he or she is out of the confines of the United States for longer than 48 hours.

Along the Canadian border Americans go into Canada to buy produce and supplies of one kind or another, and particularly in the vicinity of Detroit, a rather extensive business is carried on, amounting to a considerable sum, during the Christmas holiday season, by persons going over the Canadian border and purchasing in Canadian stores. This amendment will prevent that. They must remain out of the country at least 48 hours.

When we came to the Mexican border we found some difficulties in applying that rule because the reverse situation takes place there. The Mexicans come over and buy in American stores, and the American merchants—so ably represented by the brilliant senior Senator from Arizona [Mr. ASHURST] and the able junior Senator from Arizona [Mr. HAYDEN], and the fascinating and compelling Senator from Texas [Mr. CONNALLY], and the alert Senator from California [Mr. MCADOO]—protested, and they wanted some provision made so that Mexicans could come over to the American side and patronize the stores on this side. We found it impossible to make the law applicable to the Maine-Canadian border, the Vermont-Canadian border, and the Michigan-Canadian border equally applicable to the United States-Mexican border, so, finally, because of the compelling force of the Senators from the States on the Mexican border, a compromise has been reached, and now I am offering an amendment which attempts to protect the business done by American merchants along the full Mexican border. In brief, the amendment permits the Secretary of the Treasury to make exceptions at particular customs ports with respect to enforcing this 48-hour rule.

I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. HILL in the chair). The amendment will be stated.

The LEGISLATIVE CLERK. On page 46, it is proposed to strike out the proviso beginning on line 22, and to insert in lieu thereof the following:

Provided further, That the Secretary of the Treasury may by special regulation or instruction, the application of which may be restricted to one or more individual ports of entry, provide that the exemption authorized by the preceding proviso shall be applied only to articles acquired abroad by a returning resident who has remained beyond the territorial limits of the United States for such period, not to exceed 48 hours, as the Secretary may deem necessary at the specified port or ports to facilitate enforcement of the requirement that the exemption shall apply only to articles acquired as an incident of the foreign journey: *Provided further,* That the exemption authorized by the second preceding proviso shall apply only to articles declared in accordance with regulations to be prescribed by the Secretary of the Treasury by a returning resident who has not taken advantage of the said exemption within the 30-day period immediately preceding his return to the United States: *Provided further,* That no such special regulation or instruction shall take effect until the lapse of 90 days after the date of such special regulation or instruction: *And provided further,* That section 37 of this act shall not take effect until 90 days after the effective date of this act.

Mr. CONNALLY. Mr. President, we are all very grateful to the Senator from Massachusetts for his complimentary references, but it looks like he is bringing pressure to bear to get this so-called compromise through. As a matter of fact, we compromised by giving the Treasury all the power they asked. We do not get anything under this amendment unless we go down and see the Secretary of the Treasury and induce him to do something that he does not want to do, and which we know in advance that he does not want to do.

I wish to supplement very briefly what the able and very veracious Senator from Massachusetts has already said. A great many tourists from all parts of the United States visit towns on the border between the United States and Mexico, in California, Arizona, New Mexico, and Texas. When they visit those border towns they like to go over into Mexico and buy a few curios and things of that kind. They do not want to stay as long as 48 hours. They want to go over the border and spend a few hours in Juarez, Nogales, Mexicali, Tia Juana, or some other place, and come back. Of course the border towns which are interested in retaining the tourist trade wanted the requirement in the law that in order to get the benefit of buying these articles the tourist had to remain abroad 48 hours.

But we ran into difficulty in that connection because of the situation on the Canadian side. The same condition did not exist on the Canadian border. The Senator from Michigan [Mr. VANDENBERG], for instance, referred to the fact that people from Detroit could go across to Windsor and some of those Canadian towns probably every day and buy produce and goods at a price cheaper than that in the United States and bring them back. So the merchants in Detroit and other places naturally were complaining and insisting on this 48-hour requirement.

Therefore we proposed an amendment to apply along the Mexican border, and it also applies to the Canadian border, that we would grant reciprocal agreements. For instance, if Mexico would agree that our people should be treated the same as we treated theirs, then we would not enforce the requirement about staying over 48 hours.

However, the Treasury Department brought up a great number of objections, principally on the ground that we

could not treat the Mexican border the same as the Canadian border, and produced a Mexican statute by which they showed that Mexico does not limit importations according to value, but according to the number of articles. A traveler could have so many pairs of pants, so many coats, so many hats, so many shoes, and so many so-and-so free of duty. They raised the issue that the administrative difficulties were so tremendous that they did not want to bother with them. That was about all there was to it. They just did not want to bother with it. So they have worked out this amendment which is now offered by the Senator from Massachusetts. I will say to other Senators who are equally interested, that I think the amendment represents about the best we can do.

Mr. WALSH. I will state that the Canadian law permits Canadians to have the benefit of exemptions if they are absent less than 48 hours. It denies them their exemption under their law if they are absent more than 48 hours. That is the reason for the 48 hours being proposed by our committee.

Mr. CONNALLY. So about all we can do now is to serve notice on the Secretary of the Treasury that this amendment is put in the bill for the purpose of having him exercise this power which we give him, to make these exemptions along particular border districts, and not simply to go to sleep and forget all about it.

Mr. AUSTIN. Mr. President, I do not understand the provision, and I am familiar with the relations on the border. My native town, the town in which I was brought up, is on the forty-fifth parallel of latitude, right at the gateway of the country, on Lake Champlain, and there is an interchange of business daily across that border. It is not one-sided. It works both ways. Canadians come into Vermont and buy things that are more convenient to get there than they are in Canadian towns outside of Montreal, and Vermonters go over to Canada to buy various things. One can start from my home, for example, and be in Montreal in 2 hours and 15 minutes, without exceeding the driving speed limits. Very good relationships exist there. I want to suggest that if the reciprocal arrangement could be made, it would be a very agreeable arrangement, and would accommodate many people on both sides of the border. I do not quite understand what this amendment will do for the people.

Mr. WALSH. Mr. President, this amendment will simply put into law the reciprocal relationship that the Senator speaks of. It fixes for Americans the same length of absence as the Canadian law does for Canadians now. The difficulty is not on the northern border. That situation is clear. But if we apply that reciprocal relation we will find that those represented by the Senators from the Mexican border States are in exactly the reverse position. They would be very much handicapped, because Mexico does not have such a 48-hour law as Canada has. This arrangement has been made necessary in order to comply with what I believe is a just claim on the part of Senators from those States that they ought not to be subjected to the same rules as those on the northern border.

Mr. AUSTIN. May I ask the Senator from Massachusetts if this amendment gives to the Secretary of the Treasury power to change the period of absence from the country from 48 hours to any length of time that Canada is willing to agree upon?

Mr. WALSH. Yes; any length of time that Canada is willing to agree upon, less than 48 hours. I want to say to the Senator from Texas [Mr. CONNALLY] and to the Senator from California [Mr. MCADOO] that they have been most cooperative in this matter, and if it were not for this compromise amendment, if I may call it that, it would have been necessary, in my opinion, to have a contest on the floor to see how many Senators would vote for the Mexican border and how many would vote for the Canadian border. That is happily avoided by the magnanimity of the Senators from the Mexican border States.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. CONNALLY. The Senator from Vermont says that the Secretary of the Treasury has the power in a measure to relax these regulations, and at a great many of these border points he has put in effect what he calls a $5 regulation, under which anyone can each day bring in whatever he buys abroad, so long as the amount is under $5 for each day. Is that not correct?

Mr. WALSH. That is true. Under regulation which is now a part of the law anyone may purchase and bring into this country goods in value up to $5. That takes care of souvenirs, knickknacks, and other things.

Mr. CONNALLY. That regulation will continue in force if the Secretary sees fit to continue it in force. He has power to continue it in force or not.

Mr. WALSH. It is discretionary with him.

Mr. CONNALLY. The Secretary of the Treasury authorizes the local collector in each place to collect an import duty if he sees fit, but nevertheless it is the action of the Secretary. The provision we are proposing to insert now, as I understand, provides for something analagous to that; that if in particular localities the Secretary should find that exemptions to the 48-hour rule are necessary, such exemptions would be granted. Is that correct?

Mr. WALSH. The Senator has stated the provision as I understand it.

Mr. CONNALLY. At Detroit, for example, persons cross the border and buy goods at wholesale. The Secretary could require them to stay 48 hours in that instance. Then, at some of the Mexican border points, where persons go across and buy some Mexican chaps, a hat or two, or a little curio or piece of lace, the Secretary could relax the requirement that they remain abroad 48 hours, and could provide that they need remain abroad only 12 hours.

Mr. BORAH. If an American goes across the line, and undertakes to read the amendment and understand it, it will take him 48 hours to get back. [Laughter.]

Mr. CONNALLY. I am sure tourists do not very often go abroad for reading purposes. They go abroad to have a good time, and to buy a few little trinkets. Of course, even along the border there is a division of opinion. Some merchants want the 48-hour provision, because they do not want Americans to go across to Mexico and buy anything; but the hotels, the chambers of commerce, and the "hoorah" boys want the tourists to come.

Mr. NORRIS. I suppose the hotels want them to stay longer than 48 hours.

Mr. CONNALLY. The hotels on the American side?

Mr. NORRIS. On the other side.

Mr. CONNALLY. Yes; the hotels and other places of amusement.

Mr. NORRIS. The merchants would be opposed to allowing the privilege at all; would they not?

Mr. CONNALLY. The merchants are divided. Some of them do not want to allow Americans to bring in anything.

Mr. NORRIS. Of course.

Mr. CONNALLY. On the other hand, the operators of the local hotels and tourist agencies who are interested in bringing people to the border points believe that if Americans could not go across the border and buy something trade would be lessened.

Mr. NORRIS. If we permit Mexicans or Canadians to come to the United States it would be to our advantage, for the benefit of the hotels, to make them stay 3 days, would it not?

Mr. CONNALLY. Yes.

Mr. MCADOO. It would be difficult to find any Mexicans who could pay for 3 days' accommodations at a hotel.

Mr. NORRIS. Operators of places of amusement would want to compel them to stay longer.

Mr. CONNALLY. It would be up to the Mexican Government to say how long the tourists from Mexico would be required to stay in the United States.

Mr. NORRIS. We could require that they stay and board with us for a while before they go back; but what about the citizens in the interior of the country? As I understand, the

effect of this provision of the bill will be to permit the Secretary of the Treasury to make any law he sees fit. He can enforce the law at one point, and can prevent its enforcement at another town 10 miles away; or he may have a different rule for every town along the border between Canada and the United States, or between Mexico and the United States. I ask the Senator from Massachusetts [Mr. WALSH] if that is not true?

Mr. WALSH. The Secretary could provide different rules for different ports of entry, within the 48-hour period. At different customs ports he could have different rules, within the 48-hour period; but it is not expected that there will be any change in the situation at the Canadian border, because the 48-hour provision is the same as the Canadian law. There is no controversy or question about the situation at the Canadian border. The privilege would be extended to Canadians and Americans alike. The provision which is pending was designed to take care of the situation along the Mexican border, which has been described.

Mr. NORRIS. What benefit will the citizens in the interior of the country derive from such a provision?

Mr. CONNALLY. They will have the privilege of getting into their automobiles, coming down to Texas, crossing the border into Mexico, buying a few articles, and coming back without paying duty on the articles.

Mr. NORRIS. The same privilege will apply to the Mexicans; but they will not get the benefit of the tariff, as I understand.

Mr. CONNALLY. The articles which are brought into the United States from Mexico are not competitive.

Mr. NORRIS. They are not competitive?

Mr. CONNALLY. Not many of them. Tourists may buy a little bottle of perfume, or a Mexican hat, or something of that description.

Mr. NORRIS. If they are not competitive, should not the Secretary have power to make a regulation which would make them competitive? He would have nearly every other power under the provisions of the bill.

Mr. WALSH. At the port of Detroit, valuable furs and other things are brought in.

Mr. NORRIS. Yes. Of course, we must make a different rule for the Canadian border than that in effect at the Mexican border.

Mr. WALSH. The class of business and the trading back and forth on the Mexican border are entirely different from those on the Canadian border. Is not that true?

Mr. CONNALLY. I think Mexicans buy more in the United States than Americans buy in Mexico.

Mr. WALSH. But the class of goods dealt in across the Mexican border is entirely different from that dealt in on the Canadian border.

Mr. CONNALLY. Yes.

Mr. NORRIS. As I understand, there is a provision in the tariff law, or in the treaties with different countries, to the effect that the United States shall enjoy all the privileges which are extended to any other country. If a more favorable treaty is made, will there be any danger of our getting into trouble with Great Britain, Germany, or Japan, if we have a different rule for Mexicans and Canadians than that which we apply to other countries?

Mr. WALSH. It was proposed that we apply to the northern border the same rule as the Canadian law, and apply to the southern border the same rule as the Mexican law. So far as I could learn, nobody knew what the Mexican law was, or could read it or understand it. It is involved, complicated, and impossible of administration.

Mr. NORRIS. The proposed law makes the situation even more involved.

I should like to say to the Senator from Massachusetts that we have been listening for several days to statements about the terrible pressure which is brought to bear upon Senators and Representatives by the departments to control the votes of Members of Congress. We have heard about the trades which are made, and the offers of patronage, projects, and things of that kind.

If the proposed law goes into effect, giving the Secretary of the Treasury absolute power along the border to suspend the law here, to enforce it there, or to modify it somewhere else, shall we not increase the terrible evil which now exists affecting legislation? Will not the Secretary of the Treasury be given power to say to Members of Congress from Vermont, Texas, or California, "Unless you do so-and-so, we are going to close this port," or, "We are going to open a port in New Mexico, and close one in California," and thereby get votes in the Senate or in the House for or against some measure which the administration may want? What kind of trouble are we going to get into before we get through?

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. CONNALLY. Let me say to the Senator from Nebraska that the provision under consideration does not change the duties on anything. It does not change anything except the 48-hour requirement. Instead of requiring tourists to stay 48 hours to get the benefit of the act, the Secretary may relax the 48-hour requirement.

Mr. NORRIS. I understood the Senator from Texas to complain because he thought the proposed law would give great power to the Secretary of the Treasury.

Mr. CONNALLY. So far as the relief we are hoping to get is concerned, it would. It is left up to the Secretary to grant the privilege or not to do so.

Mr. NORRIS. It will be a question of who will be the more scientific in bringing pressure to bear—whether we bring it to bear on the Secretary, or whether the Secretary brings it to bear on us.

Mr. CONNALLY. I am not very much alarmed about the Secretary.

Mr. NORRIS. No; I do not think so. When it comes to pressure, I think the Senator will get his share of the benefits. The Secretary probably will give in.

Mr. CONNALLY. I thank the Senator. So far I have not had any experience of that kind.

Mr. NORRIS. The bill, if enacted into law, will provide the Senator with the experience he lacks.

Mr. CONNALLY. Oh, no. Instead of the Secretary conceding something to us, we are conceding something to him. The Secretary wants the provision under discussion put in the law. The Secretary says the law is impracticable of administration; and so we are reluctantly, and over our protest, agreeing to accept the best we can get.

Mr. SCHWELLENBACH. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. SCHWELLENBACH. I should be interested in knowing what the Senator from Massachusetts would answer with reference to the contention that the bill represents a direct delegation to the Secretary of the Treasury of legislative authority over a taxing matter.

In the light of all the arguments we have heard in the past few weeks about how terrible a thing it was to give the President power to do something which Congress had not been able to do for 75 years, thus making the President a dictator, why should we pass a bill which directly gives to an executive department control over the power of taxation?

I am wondering what answer the Senator from Massachusetts has to that argument.

Mr. WALSH. If I had my way, I should not have such a provision in the bill at all. However, I think Senators from States along the Canadian border made a very excellent case on the question of competition. American merchants along the border ought not to be obliged to subject themselves to competition by reason of persons crossing the border into another country and bringing back commodities to sell. Such a situation must exist in the Senator's own State of Washington.

Mr. SCHWELLENBACH. We are as familiar with it as anybody else is.

Mr. WALSH. I was impressed with the fact that the merchants along the border really had a case, especially in Detroit. The merchants pay taxes and contribute to the expenses of government, and they are entitled to be protected against Americans who get their wages and income in this country going across the Canadian border and purchasing commodities at 40 percent of the price at which they could be purchased in the United States.

The situation at the Mexican border happens to be just the reverse. There were two alternatives. One was to have a vote on the floor of the Senate to see whether we should make the 48-hour provision apply to both borders. The other alternative was to reach a compromise such as is represented in the bill.

Mr. CONNALLY. The bill is more restrictive than the present law. There is no time limit in the present law. Under the present law American tourists may go abroad and make their purchases, stay 10 minutes, and come back without having to pay any duty.

Mr. WALSH. They may go abroad today and buy $90 worth of goods and return; go abroad later and buy $90 worth of goods and return; and so on, and resell the goods in competition with American merchants.

Mr. CONNALLY. No; the Senator is in error. Americans are permitted to bring in only $100 worth of goods every 30 days; but at present there is no limitation on the length of time a visitor must remain abroad. So the effect of the bill is to tighten the tariff.

Mr. NORRIS. I should not complain if the rule were made universal; but I do not see why we should treat one foreigner differently from another, or why we should give an advantage to Americans living on one border which Americans living on the other border do not possess, or which the people in the interior of the country do not possess.

Mr. WALSH. Let us hope that this amendment will be so administered that it will do just what the Senator wants to have done. It is hoped and expected the Secretary of the Treasury will take into consideration just what the Senator has suggested and administer the law so that the Mexican people will be treated as will the Canadian people.

Mr. NORRIS. Why do we not ourselves, then, make the law? If we have jurisdiction, we should not confer that authority on some executive officer.

Mr. WALSH. It is made that way because the situation that exists on one border is the opposite of the conditions existing on the other border.

Mr. McADOO. Mr. President, this debate illustrates most forcefully the fact that we have a very diversified country and that the same conditions do not prevail everywhere. A law which may take care of the situation on the Canadian border may be a very bad law for the Mexican border. There is a very great diversity of opinion in the section in my State which will be affected by the bill as to whether or not it ought to be enacted as it stands.

Any American citizen who goes into a foreign country has the right to bring back with him, exempt from duty, $100 worth of goods for his own use. This bill undertakes to provide that along these two borders, the Mexican border and the Canadian border, or anywhere, for that matter, a man must remain out of the country for at least 48 hours before he may bring anything in free. The curious effect of it would be that if one is sufficiently rich to go to Europe or to Hawaii or to Mexico City or other foreign territory, a trip to which requires his being out of his own country for 48 hours, he can buy $100 worth of goods for himself and each member of his family and his servants and bring them in free. It really works in favor of those who are best able to enjoy expensive trips abroad. There are, however, thousands of American tourists who have little Ford cars and trailers and who come first to California and then travel to the Mexican border. They like to go into a foreign country. They go to San Diego, which is one of our large cities, having 100,000 people, and which is about 15 or 20 miles from the border, and they want to go to Agua Caliente or to Tia Juana and look around. They do not want to stay there 48 hours. All they want is to be able to say, "We have been in Mexico," and to buy a few stamps or a few Mexican souvenirs, and sometimes, perhaps, some goods which might be competitive with goods sold in this country. Some merchants feel that deprives them of business which they would otherwise have. There is a wide difference of opinion about that. Many people feel that if the law is made so restrictive, as is proposed, tourists will not come down that way in order to go into Mexico.

It is extraordinary how many people in the United States like to be able to say, "Well, I have been in Mexico," or "I have been in a foreign country."

Mr. SCHWELLENBACH. Mr. President, will the Senator yield?

Mr. McADOO. I yield.

Mr. SCHWELLENBACH. The Senator does not for a moment suggest that the reason people go to California is in order that they may have an opportunity to visit Mexico, does he?

Mr. McADOO. Some of them do. I am perfectly willing to admit that there are tourists who are anxious to be able to say, "We have been to Mexico." The opportunity to visit Mexico is one of California's attractions, for Mexico is an adjacent area, in the nature, may I say, of a suburb of Los Angeles.

Senators, the problem seems to me to be simply this: Is it wise to give this advantage to the people who are able to go to a foreign country and remain there 48 hours, but say to all those who are not so fortunately situated and who may have a chance to take a little vacation that, unless they remain outside of the United States 48 hours, they shall be penalized by being compelled to pay a duty on such goods as they may bring in with them?

I do not know what the abuses are on the Canadian border. I wish that the conditions were such that all laws might have uniformity of application everywhere. I can see the difficulties about making one rule for Canada and another rule for Mexico. But I believe that this kind of discrimination along the Mexican border is going to be hurtful to us instead of beneficial. I believe that at this time when we are trying to establish and maintain friendly relations, commercially and otherwise, with all nations, it would be a distinct retrogression to make this exception.

I am not making any fight on this matter. The Treasury Department seems to think that some terrible abuse exists of which we who live along the border do not know. I, therefore, am disposed to accept the committee's judgment.

Mr. WALSH. Mr. President, let me give just one case. Three or four members of a family or a group of people working together may now go from Miami to Habana and each one may buy $99 worth of cigars. When they return, they obtain the exemption for all that large number of cigars. That is an abuse.

Mr. McADOO. I think it is entirely proper to restrict that kind of a practice.

However, there is another difference in the situation we are talking about. The provision in the bill as to 30 days, I think, will cover the situation to which the Senator refers, as the purchase cannot be repeated within 30 days. I think that is a wise provision.

Mr. WALSH. Incidentally, I suppose the Senator is aware of the fact that before the committee the southern California border was classified by many of the witnesses in the same category as the Canadian border. The complaints we received from Texas and from Arizona and New Mexico were not similar to those that came from California. In fact, there were several witnesses and several petitions to the committee expressing the wish that the Canadian border regulations be applied to southern California.

Mr. McADOO. Different conditions prevail along the Mexican border. For instance, Mexicali is on one side of the international line and Calexico on the other, with a center street between, and a fence runs down the middle of the street, Mexico being on one side of the fence and California

on the other side. The intercourse between those two towns is practically the same intercourse as that in a community without a fence, but it is necessary to pass the barrier and to go through the customs and all the formalities. I concede that those things cannot be avoided so long as we have customs laws. In the case of Juarez, Mexico, and El Paso, Tex., which are separated by the Rio Grande River, there being a bridge between the two, a very different situation exists. That is also true of Laredo, Tex., and the portion of Mexico opposite it, and of Brownsville, Tex., and the Mexican side of the border. Their problems are quite different from those encountered on the Canadian border.

For my part, I would much prefer to have the 30-day provision retained so as to correct abuses of which there seems to be just complaint by preventing a man going into a foreign country more than once in 30 days and bringing back a hundred dollars' worth of goods without the payment of duty. I think that it would be far better to leave these two borders alone otherwise and leave the law as it now is. That is my conviction about it. But if we are going to put this provision in the bill, then I think the merchants who have built up business along the border should have 90 days before this section goes into effect so as to give them time to adjust themselves to the situation. I also prefer to stand by the 30-day provision of the bill. I think it would be easier of administration.

Mr. WALSH. That is the law now; it has been in operation since 1932; but, notwithstanding, petitions come to the Treasury Department and to the committee asking for a change.

Mr. McADOO. There must be some lack of enforcement on the part of the administrative authorities if the 30-day provision is so abused. I am perfectly willing to accede to the will of the majority of the Senate on this question. With the amendment which has been made I think it will give the people a chance to adjust themselves to the situation.

Mr. NORRIS. Mr. President, it seems to me that in this terrible difficulty and very important proposition we have been discussing, wherein we are trying to do the impossible, and are going to have one rule for Canada and another for Mexico, there is one thing that ought to be called to the attention of the Senate, and that is that we are extremely fortunate not to have a State in the Union that borders on both Canada and Mexico. If there were no Oregon and no Washington, and all that section of the country was added to California so that at one end of the State one rule would apply and at the other end of the State another and entirely conflicting rule would apply, it would be a terrible thing, and we ought to rejoice that the condition does not exist. [Laughter.]

Mr. REAMES. Mr. President, this is not a very important matter so far as the amount of money is concerned, but it has an aspect which has not been mentioned.

The existing law has been in force for a great many years, and everybody who has traveled along the border knows that the people are satisfied with it. When we begin to make a change in the law and place agents along the border to determine how long a citizen has been on the other side, to take affidavits, and to conduct all the incidental investigations of persons who cross the border, perhaps put them through the process of delousing, the amount of money which will be spent in trying to collect four or five measly dollars will be such that the net revenue will be too small to talk about. I think we ought to let the law remain as it is.

Mr. KING. Mr. President, I desire to ask the Senator from Massachusetts a question. Is it not a fact that we export to Canada very much more than we import from Canada? I remember that a few years ago the exports to Canada were about $800,000,000, and the imports from Canada were between four and five hundred million dollars. Are we not by this legislation penalizing ourselves, tending to restrict our own exports and our own sales?

Mr. WALSH. The Senator's statement is correct except as to one thing—tourists. We send very many more tourists to Canada than Canada sends to this country.

Mr. KING. But in the long run we sell more to Canada than she sells to us.

Mr. WALSH. So far as Canada is concerned, all we are doing is applying the Canadian law to the American border. This is exactly the same law that they impose—48 hours—so it is putting no hardship upon them.

Mr. KING. It seems to me these laws are impediments to legitimate trade and commerce, and are obstacles to the development of our economic life.

Mr. WALSH. Of course it is natural to have agitation on the part of merchants along the border. The Canadian law, however, has a 48-hour provision.

Mr. KING. Is the Canadian law enforced by Canada?

Mr. WALSH. The experts inform me that it is thoroughly enforced; and I may add that it is more exacting than our law, in that an exception is allowed only once in 4 months instead of every 30 days.

Mr. KING. My opinion is that if the State Department would take up the matter with Canada, we could eliminate the situation which calls for this legislation.

The PRESIDING OFFICER. The Chair will inquire if it is the intention of the Senator from Massachusetts under his amendment to strike out the proviso beginning on line 5, page 47.

Mr. NORRIS. That is what the amendment says.

Mr. WALSH. No, Mr. President; it is to add to it.

The PRESIDING OFFICER. The Chair will state to the Senator from Nebraska that it is very clear that it is the intention of the amendment to strike out the proviso beginning on line 22, page 46; but the Chair is not clear as to whether or not it is also the intention of the amendment to strike out the proviso beginning in line 5, page 47.

Mr. WALSH. It is not the intention. The amendment was drafted by the Treasury experts under the direction of the Senators from New Mexico, who are interested in the subject; and I offered it on behalf of the committee.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. NORRIS. No, Mr. President; I should like to have a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Massachusetts. [Putting the question.] The ayes have it, and the amendment is agreed to.

Mr. O'MAHONEY. Mr. President, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 41, line 3, after the phrase "manufacture of", it is proposed to insert "any knit or woven fabrics, blankets, or other textile articles, or."

On page 41, line 4, beginning with the word "nor", it is proposed to strike out the remainder of the sentence down to and including the word "articles" and to insert "or which are exported."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Wyoming.

The amendment was agreed to.

Mr. O'MAHONEY. Mr. President, let me say that I have offered the amendment which has just been adopted as the result of a colloquy which took place upon the floor earlier in the debate between the Senator from Massachusetts (Mr. WALSH) and myself.

The amendment I had intended to offer was to strike out in line 24, page 40, the language beginning with the word "but" down to and including the word "articles" in line 4 on page 41, and to insert in lieu thereof the following language:

> The words "wool and hair," as used in this section, include any parts of products of such wool or hair as are susceptible of use in the production of the above enumerated articles, or of any knit or woven fabrics, blankets, or other textile articles.

It appeared to be the opinion of the Senator from Massachusetts that in such form the amendment would have resulted in unnecessarily placing a tax upon waste products

which go into use as fertilizer, and into other uses. The amendment I have offered, and which has been adopted, has the effect of providing that the tax shall fall upon waste products which go into the manufacture of textiles, blankets, and other woven fabrics; and the understanding is that that is the purpose of the amendment.

Mr. WALSH. I am very much pleased to have the Senator's explanation, and I agree with the understanding he has presented.

Mr. KING. Mr. President, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 13, between lines 22 and 23, it is proposed to insert the following new section, and to renumber the present sections accordingly:

SEC. 8. The Tariff Act of 1930 is hereby amended by adding at the end of title III the following new part:

"PART IV—DECLARATORY RULINGS

"SEC. 370. Authority to issue.

"(a) The Secretary of the Treasury is authorized to issue, whenever he deems that the effective administration of the customs laws will be promoted thereby, a declaratory ruling to determine any question (within the jurisdiction of the Secretary), including questions of fact, arising in respect of any completed or contemplated act, transaction, or event and concerning the application of any customs laws or any accrued or prospective civil liability, or any exemption, imposed or conferred by such laws. The authority hereby conferred shall not limit or affect any power or authority to issue rulings or regulations conferred by any other provisions of law.

"(b) Such rulings may be issued upon application made therefor. The Secretary of the Treasury may prescribe by regulation the classes of cases or matters in which applications for declaratory rulings may be made and the form and manner in which such applications shall be filed. No suit, action, or proceeding shall lie or writ issue (1) on account of any failure or refusal of the Secretary to issue a declaratory ruling or (2) to restrain the issuance of such a ruling.

"(c) No declaratory ruling shall be issued until the Secretary of the Treasury shall have given such notice and shall have afforded such hearing, with opportunity to offer evidence, oral or written, as he may deem sufficient for a full presentation of the facts pertinent to any question involved.

"(d) The Secretary of the Treasury is authorized to confer or impose upon the Commissioner of Customs or any other officer or employee of the Treasury Department, under such regulations as the Secretary may prescribe, any of the rights, privileges, powers, and duties conferred or imposed upon the Secretary by the provisions of this part.

"SEC. 371. Application.

"(a) An administrative ruling concerning the application of any customs law or any civil liability or any exemption imposed or conferred by such laws shall be effective as a declaratory ruling in the manner hereinafter provided only when designated as such by the Secretary of the Treasury.

"(b) A declaratory ruling shall apply as such only in respect of the persons, acts, transactions, or events described or specified in the ruling, and shall be applicable in respect of a specified act, transaction, or event only of such act, transaction, or event is consummated or occurs in substantial compliance with the terms of the ruling. The Secretary of the Treasury may cause such investigation to be made as he deems necessary to determine whether there has been such compliance.

"(c) Except as otherwise provided by law or by the terms of the ruling, a declaratory ruling shall apply with respect to acts, transactions, or events occurring before as well as after its issuance.

"(d) A declaratory ruling shall not be effective (except as provided in subsection (e) of this section) in any case where the Secretary of the Treasury finds that there has been fraud, or misrepresentation of a material fact.

"(e) A declaratory ruling shall be effective with respect to any act proved to the satisfaction of the Secretary of the Treasury to have been done or omitted in good faith and reliance upon and in conformity with such declaratory ruling, notwithstanding that such ruling may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

"SEC. 372. Review.

"A declaratory ruling shall not be reviewed by any administrative or accounting officer of the United States with respect to any act, transaction, or event in respect of which such ruling has become effective as provided in section 371.

"SEC. 373. Termination.

"(a) A declaratory ruling shall be effective until terminated in any manner provided in this section.

"(b) The Secretary of the Treasury is authorized to terminate the effective period of a declaratory ruling upon due notice being given, by publication or otherwise, at least 30 days before the termination of the effective period but shall not terminate the effective period of a declaratory ruling (1) within 1 year after the date of issuance or (2) within such period of time after such date of issuance as may be found by the Secretary, and stated by him in the declaratory ruling, to be the period of time which normally elapses between the dates of order and importation with respect to a class or kind of merchandise covered by the ruling, unless he finds that the ruling was procured by fraud, or misrepresentation of a material fact, or is inconsistent with a subsequent enactment by the Congress, with a subsequent proclamation or order of the President made pursuant to any provision of this act, or with a final judicial decision rendered after the issuance of the ruling.

"(c) If a declaratory ruling is determined to be erroneous, in whole or in part, by a final decision of a court of competent jurisdiction, such ruling shall thereupon cease to be further effective for any purpose.

"(d) Nothing in this part shall be construed to affect the finality of any determination which has become final pursuant to any other provision of law."

Mr. KING. Mr. President, the amendment that I offer, briefly stated, is as follows: It authorizes the Secretary of the Treasury to issue, upon application of the importer or other businessman, declaratory rulings to determine any question within his jurisdiction, other than a question of criminal liability, arising in respect of any completed or contemplated act, transaction, or event involving the application of the customs laws. Such a ruling would be issued by the Secretary only after notice and a hearing, and upon a full investigation of the details of the transaction involved.

A declaratory ruling would apply only to the persons or transactions described or specified in the ruling itself, and then only if the transaction is consummated or occurs in substantial compliance with the terms of the ruling. A declaratory ruling will ordinarily apply to transactions occurring in the future, but it may apply to past transactions; as, for example, those in which goods have been imported, but duties on them have not been finally determined. Except as to innocent parties, such a ruling will not be effective in any case in which the Secretary of the Treasury finds that there has been fraud or misrepresentation of a material fact. Thus, for example, if an individual obtains the issuance of a ruling by fraud, and innocent persons covered by the ruling rely upon it, the ruling would be effective as to them, though it would not be effective as to the guilty individual.

A declaratory ruling will be binding upon all nonjudicial officers of the United States. It may, however, be reviewed both on the law and on the facts in a court of competent jurisdiction in any case involving its application.

Until its termination, a declaratory ruling will be binding upon the Government. The Secretary of the Treasury is authorized to terminate a declaratory ruling upon 30 days' notice, but he cannot terminate the ruling within 1 year after its issuance, or within such period of time after the date of issuance as the Secretary may find and state in the ruling itself is the period of time which normally elapses between the dates of order and importation with respect to the class of merchandise covered by the ruling. The latter alternative minimum period for the life of the ruling is designed to permit an importer to obtain a ruling upon which he can rely with respect to merchandise which he will obtain on special order from abroad, as contrasted with orders which are filled out of stock. These minimum limitations on the life of declaratory rulings will not apply, however, in cases in which the Secretary finds that the ruling was procured by fraud or misrepresentation, or is inconsistent with a subsequent act of Congress, a Presidential order or proclamation, or with a final judicial decision rendered after the issuance of the ruling.

If a declaratory ruling is determined to be erroneous by a final court decision, the ruling thereupon ceases to be further effective for any purpose.

Mr. President, sometime ago I presented an amendment to House bill 8099, the bill now under consideration. I offer the amendment at this time and ask for its adoption. While my amendment as first submitted has provoked some opposition, I am offering it now in a materially revised form, which, I believe, will meet all the objections that have been raised, and, indeed, any legitimate objections that could be raised.

It was my privilege to sponsor in the Senate the bill which became the Declaratory Judgment Act of 1934. Everyone is agreed that that legislation was a great step forward in the improvement of the judicial process. Its usefulness is best evidenced by the scores of cases in which it has been invoked. The amendment which I now propose carries into a field of Federal administration the principle which, under the provisions of the Declaratory Judgment Act, now operates in the judicial field. I believe it will prove of very real benefit to businessmen.

My amendment is designed to provide relief from the uncertainties which now face taxpayers under the customs laws. It will afford an opportunity which does not exist under present law for the businessman to go to the Treasury for advice, and to obtain reliable information concerning his prospective duty liability, with assurance that the Treasury Department will not reverse itself before he has completed his transaction and settled his customs liabilities. I believe the proposed relief will materially reduce the hazards now faced by importers, which embarrass them in their business transactions. These hazards also impose a burden upon American consumers, who now not only pay increased prices for excessive duties erroneously collected, but are also taxed to provide the moneys to refund such duties.

The amendment provides that the Secretary of the Treasury may make declaratory customs rulings which, for a specified minimum period of time, shall be binding on the Government. The importer may accept a ruling or, if he disagrees with it, obtain a judicial determination of its propriety. The court procedure for judicial review will be the same which is now available in customs matters.

The operation of the amendment can best be illustrated by an example. A businessman contemplates the manufacture of a new commodity with the use of a material which must be obtained from foreign sources. Whether or not he shall engage in this business depends upon the cost of the foreign material. He can readily obtain information as to prices, insurance, freight, and handling charges; but today it is impossible for him to obtain positive assurances as to the applicable rate of duty. Under existing law he must count this as a speculative element of his venture, and realize that at any time the customs officials may assess a higher duty than he has anticipated. Under my amendment he will be able not only to receive an advance opinion from the Treasury Department concerning the applicable rate of duty, which may now be furnished him, but he may also receive that which is now impossible—that is, assurance that the Treasury Department will not review his case and impose a different rate of duty during a fixed period of time, in normal cases not less than 1 year.

A striking illustration of the benefits which will result from the adoption of my amendment is found in connection with the importation of a tapestry by a church in Philadelphia. The church received a bequest of $20,000 to be used in ornamenting the church. It wished to purchase a particular type of tapestry, to be made abroad in a particular factory, in accordance with a design to be furnished by the church. In order that the church might know what charges would be imposed by the customs, and accordingly how much of the bequest might be spent on the tapestry itself, all the details of the proposed transaction were communicated to customs officials, who advised that under the described circumstances the tapestry would be free of duty. The order for a tapestry was accordingly placed, the purchase price of which consumed practically the entire bequest.

Three months later the tapestry was imported. In the meantime, and in connection with another matter, the customs officials had reexamined the law under which free entry was to have been granted, and decided that the law did not apply to articles of the kind purchased by the church. Therefore, when the tapestry was imported, duty was assessed in an amount of $12,000. The assessment was protested. The Treasury Department ruled that it could grant no relief, and the assessment of duty was sustained by the Customs Court.

The amendment is wholly advantageous to the purchaser and beneficial, I think, to business generally. It is accepted by the Treasury officials. I may say that they have drawn the amendment.

The amendment will also have the incidental effect of reducing customs litigation to some extent. That is all to the good. The docket of the United States Customs Court is choked with more than 200,000 cases, and I am advised that new cases are being filed faster than the Court disposes of pending ones.

Mr. OVERTON. Mr. President, will the Senator yield?

Mr. KING. I yield to the Senator from Louisiana.

Mr. OVERTON. I was not in the Chamber when the amendment was read. Does the amendment offered by the Senator from Utah give authority to the Secretary of the Treasury to pass upon facts so that his decision will be final?

Mr. KING. No. As I stated, the applicant for the decision is not bound by it, but the Government is bound. The applicant may appeal, and disregard the decision, and go to the court.

Mr. OVERTON. He has the right of review by the court?

Mr. KING. Absolutely. The original amendment denied that right, but I have stricken out that provision.

Mr. OVERTON. In that particular the Senator's modified amendment is different from the original one?

Mr. KING. It is materially changed.

Mr. WAGNER. Mr. President, I have a number of telegrams from representative organizations in New York protesting against the provisions of the original amendment in regard to declaratory judgments, which made the decision of the Secretary of the Treasury final as to the entire contemplated act.

Mr. KING. That is eliminated.

Mr. WAGNER. That is what I wanted to be sure of, because it seemed to be an injustice that a decision of that kind should not be reviewable by the courts. The Senator, as I understand, now has modified his amendment?

Mr. KING. Entirely.

Mr. WAGNER. So that the applicant—that is, the importer, the party interested other than the Government—has a right to a review in the courts of the decision of the Secretary of the Treasury?

Mr. KING. The finding may be made by the Secretary, and if the applicant is satisfied with it, he may proceed to import the goods with full knowledge of what he will have to pay. If he dislikes the finding, he may go to the Customs Court, just as he may do now.

Mr. WAGNER. Is the right of review limited to the applicant, or may any party who is interested in the decision have a review by the court?

Mr. KING. It is limited to the parties who are before the Treasury Department.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. KING. Yes.

Mr. CLARK. Am I to understand that these persons in New York had the effrontery to send the Senator a telegram? If so, they are likely to be put in jail. [Laughter.]

Mr. WAGNER. Let us not get into an extraneous controversy.

Mr. KING. I am sure the Senator from Massachusetts will accept the amendment.

Mr. WALSH. Mr. President, for the RECORD I should like to state that the original amendment proposed by the able Senator from Utah met with violent opposition from all over the country, and we received letters and telegrams of protest regarding it. The amendment now presented is an entirely different one, the Senator having greatly modified the original one.

Briefly stated, the difference between the previous amendment and this one is as follows:

When an importer made inquiry as to what rate might be fixed by the Department on an article he was about to import, the original amendment offered by the Senator permitted the Department to advise him as to the rate; and when advice was given that the rate would be of a particular amount, or that the article would come under a particular schedule, the original amendment of the Senator made that advice binding upon the Treasury, and a conclusive finding of fact, and prevented a reexamination by the court into the accuracy of that finding. The reason for the Senator's amendment was because cases were brought to his attention and to the attention of other Senators in which the Treasury Department had advised importers that the import duty would be a particular amount; and later, when the article was imported and a review was had, the Treasury Department had felt obliged to levy a duty very much in excess of that originally stated.

The Senator has changed his amendment. The one he now offers permits the Treasury Department to make a declaration of the rate on a particular article, but it is not conclusive. It may be reviewed by the courts, and any aggrieved party can take the matter to court.

Mr. KING. What about the Government?

Mr. WALSH. The Government cannot reverse itself. The importer knows that that is the only rate he has to pay unless the court makes a change. The Treasury Department cannot make a change of duty after its first declaration.

There is no objection to the amendment as now presented, but the previous amendment was objected to quite strenuously.

Mr. WAGNER. Mr. President, I have a particular interest in the matter of the declaratory judgment. I was an advocate of it for a long time in New York, and helped make it part of the civil practice act in my State.

I am surprised that lawyers do not utilize that method to a greater extent, so that before parties enter into a transaction they may know what their respective rights are. That part of the Senator's amendment of course I heartily favor; but I still believe that in matters of this kind there should be an opportunity for court review. For that reason I am glad to have the assurance of the Senator. I was confident that the request for court review, which was pretty nearly universal, would receive a favorable response from the Senator from Utah.

Mr. WALSH. Mr. President, it is only fair to say, in behalf of the Senator from Utah, that the original amendment he proposed was similar to that embodied in many statutes, giving departments the authority and power he proposes. But in this bill the bestowal of the same power was vigorously and militantly opposed.

Mr. KING. Mr. President, I should like to say to the Senator from New York, he having mentioned the declaratory judgment, that a number of years ago I had the honor to sponsor and introduce a bill providing for declaratory judgments. It was opposed violently by a number of able Senators, but finally we succeeded in having it adopted, and it has served a very useful purpose.

It seems to me that a broader use of the declaratory judgment should be made, and that so far as possible it ought to be introduced into the administrative law of every State.

Mr. WAGNER. Mr. President, I do not differ with the Senator, so far as the administration by the Government of its own contracts and affairs are concerned. I am not advocating a review in the courts upon all those decisions. But we are concerned here with private individuals and private rights. In those cases, I am sure, none of us would want to deprive an individual of a review by the courts.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Utah [Mr. KING].

The amendment was agreed to.

Mr. WAGNER. I should like to make an inquiry of the Senator from Wyoming, who a short time ago proposed an amendment to section 34 of the pending bill, which amendment was agreed to. Unfortunately I was called out on some official business when the amendment was considered. I want to ask the Senator whether his amendment imposes any duty upon wool which is used by our manufacturers in the manufacture of carpets. I represent a State in which is located a large part of the domestic rug manufacturing industry. I am, therefore, concerned in seeing that the rights of those manufacturers are protected.

Mr. O'MAHONEY. Mr. President, under the law as it stands, as the Senator knows, wool noils may be admitted free of duty for use in the manufacture of rugs or carpets.

Mr. WAGNER. Exactly.

Mr. O'MAHONEY. They may not be admitted free if they are to be used in the manufacture of clothing.

Mr. WAGNER. That is true.

Mr. O'MAHONEY. The Tariff Act levies a rate of 30 cents per pound upon noils if they are carbonized and 23 cents if they are not carbonized.

It has developed that certain wools which have been admitted free for the manufacture of carpets, after the carpets have been manufactured noils are produced as a by-product, and they are not available for use in the manufacture of carpets. These waste products have been used and are being used in the manufacture of shoddy textiles, and other knit and woven fabrics, and the amendment is designed only to prevent the diversion of these waste products into the manufacture of commodities upon which there is a tariff. It does not interfere with the wool admitted free for the manufacture of carpets or rugs.

Mr. WAGNER. In other words, the shoddy of which the Senator speaks is that which has not been used in the manufacture of the rug; it does not go into the rug at all.

Mr. O'MAHONEY. This is the waste product which does not go into the rug, but might go into a suit of clothes. If the Senator did not wear such very attractive clothing he might be in danger.

Mr. WAGNER. Or if the Senator from Wyoming did not wear expensive clothes he might be subjected to the same difficulty.

I wanted merely to receive the assurance that there was no change so far as concerns the duty on the wool which goes into the manufacture of rugs.

Mr. O'MAHONEY. That is correct.

Mr. SCHWELLENBACH. Mr. President, I offer an amendment, which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 43, line 21, after the word "including", it is proposed to insert the word "lumber" and a comma.

Mr. SCHWELLENBACH. Mr. President, I desire briefly to explain the amendment. The present tariff act provides for the free entry of—

> Articles the growth, product, or manufacture of the United States, when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture * * * including shooks and staves when returned as barrels or boxes.

My amendment would add lumber to shooks and staves, and would permit our producers of lumber to export the lumber manufactured as to width and thickness, but not as to length; and then have that manufactured lumber returned into the United States duty free if used as containers. It would give to lumber which is manufactured as to width and thickness, but not as to length, the position in the bill with shooks and staves.

There can be no logical distinction between the two. The only difference is in the cutting of these pieces of lumber down to certain lengths.

The lumber business of the Pacific coast has suffered very seriously for many years, and it has suffered very seriously because of the policy in the reciprocal-trade agreements. There have been 17 of them, and so far nothing has been done which would be of advantage to the lumber people.

This amendment would give to the lumber producers an opportunity, in a very small way, it is true, to export some of their lumber and have it used for the manufacture of containers, and would merely put it upon a parity with shooks and staves. I do not see that any logical distinction can be made between the two.

I ask consent to have certain letters upon this subject printed in the RECORD as a part of my remarks.

The PRESIDING OFFICER. Is there objection?

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DOUGLAS FIR EXPORT CO.,
Seattle, Wash., February 16, 1938.

The Honorable LEWIS B. SCHWELLENBACH,
Senate Office Building, Washington, D. C.

DEAR SIR: It has just come to our attention that the proposed Custom Administrative Act of 1937 (H. R. 8099), which passed the House last August and is now before the Senate Finance Committee, proposes to amend paragraph 1615. This paragraph relates to shooks and staves when returned as boxes and barrels in use as the usual containers of merchandise.

In order to further assist the export of forest products from the States of Washington and Oregon, we respectfully request that you use your best endeavors to have this act further amended before it is passed by the Senate. We understand that the Senate Finance Committee has concluded hearings on this bill but the full committee has not taken it up. The amendment we would like to have inserted would be after the word "including" on page 36, line 5, the word "lumber" and a comma.

The present tariff act provides in paragraph 1615 for the free entry of "articles the growth, produce, or manufacture of the United States, when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture * * * including shooks and staves when returned as barrels or boxes."

The regulations in force issued by the Treasury Department in the administration of this provision include the following:

"ART. 397. Shooks and staves—Consular account: (a) Pursuant to paragraph 1615, above quoted, American shooks and staves reimported in the form of complete boxes or barrels filled with foreign products are exempt from any duties imposed by the tariff laws upon similar containers made of foreign shooks or staves, provided their identity is established under these regulations (arts. 397, 398, and 399).

"(b) The term 'shook' embraces only shooks which, at the time of exportation from this country, are ready to be assembled into boxes or barrels without further cutting to size; except that box shooks may be exported in double lengths and cut abroad, provided that the number of boxes made from such shooks which may be imported into this country free of duty cannot exceed the number of sets of shooks exported. (T. D.'s, 36444–47559.)"

Provision is also made for certificates of the foreign shipper and box maker and an elaborate means is provided for preventing evasion of duty under this provision.

There are a number of foreign markets to which we could ship lumber partly manufactured from spruce and hemlock produced in Washington and Oregon, provided these cases, when filled with merchandise, could be returned to America duty-free. We are prevented from doing this as most countries have high-import duties on manufactured shooks where they have a comparatively low duty on lumber.

The lumber we propose to export would be manufactured to width and thickness but not to length. You will note in the above quotation from article 397, paragraph b, that double lengths are permitted. The limiting to double is of little or no value to the mills producing this export box lumber. Neither does it assist the box maker abroad to import American lumber for making box shooks, as undoubtedly the foreign customs would class these double lengths as manufactured shooks.

There have been so many inroads made upon the wooden box and case business in recent years by cardboard manufacturers and other substitutes that box lumber from hemlock and spruce is in oversupply and the producing mills are not operating more than half capacity.

It might be argued that allowing cases and boxes manufactured abroad would be depriving American labor of work. This would not be the case as the markets to which this lumber for box-making purposes would be shipped are not at the present buying either shooks or lumber for this purpose.

The only advancement in value or improved condition would be that the lumber would be cut to required lengths to which would be added nails. We understand that the Treasury Department does not consider this as other than something that is necessary, the same as adding hoops to staves, which are allowed free entry when no further improvements are made.

We respectfully request your further interest in the Northwest lumber industry by requesting the committee to amend the Customs Administrative Act of 1937 (H. R. 8099), page 36, line 5, by inserting the word "lumber" followed by a comma, following the word "including."

Should you desire further information on the above subject as to why this would be beneficial to the lumber industry, we will be glad to furnish you immediately with more details.

Yours respectfully,

DOUGLAS FIR EXPORT CO.,
M. E. BLACKMAR,
Assistant Manager.

HENRY MILL & TIMBER CO.,
Tacoma, Wash., February 19, 1938.

Hon. L. B. SCHWELLENBACH,
United States Senate, Washington, D. C.

DEAR SIR: It has come to our attention through the Douglas Fir Export Co., of Seattle, our export selling agents, that there is before the United States Senate, an amendment to the Custom Administrative Act of 1937 (H. R. 8099).

As we understand it, there is provided in this act the free entry of boxes and cases when shipped from abroad containing foreign merchandise, providing they are made of American lumber. However, the regulation at the present time is that box shooks, barrels and casks, and so forth, containing foreign merchandise are assessed a duty of from 90 and 100 percent in most foreign countries, unless it is proven that they are made of American shooks.

In many countries there is a very high import duty on made-up shooks, but a relatively low duty on lumber that could be imported for making shooks. There is a very definite possibility that we can increase our lumber exports of this type of lumber, if the foreign buyer could use it to make shooks, barrels, and casks, which would be returned to this country duty-free containing merchandise.

We received the information that if the above numbered act (H. R. 8099) were amended on page 36, line 5, we believe that a new foreign market could be developed for box lumber. The present reading of the act is, "including shooks and staves when returned as boxes or barrels in use as the usual containers of merchandise."

If the act was amended to read thus, "including lumber, shooks, and staves when returned as boxes or barrels in use as the usual containers of merchandise," it would be a distinct benefit from the standpoint of our own operation, and undoubtedly would benefit most of the other cargo mills on Puget Sound, in opening this additional market for export lumber. Particularly in view of the fact that box lumber is of a generally low grade which is becoming increasingly difficult to move into domestic markets.

I trust that we may have your favorable action on this act, and would very much like to hear from you as to the possibility of getting the act amended as suggested.

Yours very truly,

HENRY MILL & TIMBER CO.,
By JOHN F. BUCHANAN.

WEST COAST LUMBERMEN'S ASSOCIATION,
Seattle, Wash., February 23, 1938.

Hon. LEWIS B. SCHWELLENBACH,
United States Senate, Washington, D. C.

MY DEAR SENATOR SCHWELLENBACH: I have just seen the letter which M. E. Blackmar of the Douglas Fir Export Co. sent you under date of February 16, requesting that the word "lumber" be inserted on page 26, line 5, of the Customs Administrative Act of 1937 (H. R. 8099). This is for the purpose of permitting American lumber to be shipped abroad and then to reenter the United States duty-free, in the form of crates or other containers used in the shipment of imported merchandise.

I wish heartily to second Mr. Blackmar's recommendation. The principle of free entry into the United States of our own domestic materials, used in shipping and packaging foreign merchandise, has long been recognized by tariff law. This proposal would carry out that same principle more completely. In the case of a number of countries to which lumber is exported from the Pacific Northwest, it would expand our trade and result in the use of more American—less foreign—lumber as containers for imported merchandise.

This is one of the steps that can be taken to build up the offshore trade in west-coast lumber, of which I have written you frequently. We are anxious that no stone be left unturned that might help, even to a moderate degree, in restoring our former volume of export lumber production and employment.

I hope very much that Mr. Blackmar's suggestion may receive your support.

Sincerely yours,

W. B. GREELEY,
Secretary-Manager.

ST. PAUL & TACOMA LUMBER CO.,
Tacoma, Wash., February 18, 1938.

Hon. LEWIS B. SCHWELLENBACH,
United States Senate, Washington, D. C.

DEAR SENATOR SCHWELLENBACH: Our attention has been drawn to the fact that the United States Senate is now considering an amendment to the Customs Administrative Act of 1937 (H. R. 8099). If one clause in that act can be amended to include the word "lumber," it appears that a very substantial market can be

opened to Northwest products in many foreign countries; and this gain will in no sense change or limit the intention or purpose of the act. The act provides for the free entry of American boxes and cases when shipped from abroad containing foreign-made merchandise. On the contrary, unless it can be proven that containers are of American manufacture, duty is assessed on said box shooks, barrels, casks, etc., at the same rate as on the merchandise contained therein.

In many countries there is a very high duty on American shooks, but lumber partially manufactured for box-making purposes could be imported at a comparatively low duty. There are a number of countries at the present time interested in buying their box shooks in the manner, provided the cases and boxes would have no duty assessed when shipped back to this country as the containers of merchandise. Therefore, we urge that the act be amended on page 36, line 5. It now reads "including shooks and staves when returned as boxes or barrels in use as the usual containers of merchandise." We recommend an amendment so that it will read "including lumber, shooks, and staves when returned as boxes or barrels in use as the usual containers of merchandise."

We will appreciate any assistance which you can give in this matter.

Very truly yours,

C. WAGNER, *Vice President.*

Mr. REAMES. Mr. President, I question the wisdom of agreeing to this amendment. The articles to which the paragraph under discussion refers are those which come in duty-free. After the word "merchandise" occurs the phrase "including shooks and staves." What is sought to be inserted is the word "lumber" before the word "shooks." Shooks are lumber which has been cut in dimensions for boxes—fruit boxes principally. The objection I have to the amendment is that it allows lumber to be shipped, for instance, to Japan, and by the labor over there cut into box shooks such as we manufacture on the Pacific coast by our own labor. Whether it is advisable to make such a provision is a question I wish to have the Senate consider.

Mr. SCHWELLENBACH. Mr. President, will the Senator yield for a question?

Mr. REAMES. Certainly.

Mr. SCHWELLENBACH. So far as lumber is concerned, the only difference would be the cutting of the lumber into different lengths to be manufactured in this country, so far as thickness and width are concerned, and the only labor performed by the Japanese, for instance, on it would be to cut it down to certain lengths. The shooks and staves have to be manufactured into containers and the lumber would have to be manufactured into containers.

As to additional labor upon the lumber, it would just be a matter of cutting that lumber into lengths. I cannot see that any great amount of labor, which would go to American workingmen, would be involved in changing the length of the lumber in that way.

Mr. REAMES. The question is asked, "What is the advantage in doing it this way?" I think the answer to that question is that it gives a market for lumber that is to be made into shooks. But I can better answer the Senator's question by giving an illustration. We have in our community two large mills that are devoted entirely to cutting into box shooks lumber which comes from large lumber concerns. They are very large industries. But if that lumber is shipped to the Orient, for instance, in its correct dimensions of course, it can then be cut into the dimensions for box shooks by foreign labor or in foreign mills.

I do not know that I have any very great objection to the amendment, but I just make that statement. Of course, I am as anxious to help the lumber industry in the Northwest as the Senator from Washington is.

Mr. WALSH. Mr. President, the principal difficulty with this amendment is one of administration. As has been stated by the able Senator from Washington, shooks and staves made in this country, and to which the Senator who just preceded me referred, are shipped out of the country and made into boxes and the boxes are returned to this country from the foreign countries, containing supplies of one kind or another, in some instances tomatoes, and when the boxes made from the shooks and staves prepared in this country return, they are not subject to duty, though the contents of the boxes are subject to duty.

The amendment which the able Senator from Washington has presented will have not only the effect which the Senator who has just preceded me stated, of diminishing the opportunity for making shooks and staves in this country, but will also be harmful in another respect. The Senator's amendment proposes that American lumber shipped to a foreign country and made there into shooks and staves, shall upon being returned to this country in the form of boxes, and containing produce or other goods imported from the foreign country into this country, not be subject to tax. The method of administering the present law, so far as shooks and staves are concerned, is a very intricate one and a very difficult one. I am informed that double-entry bookkeeping must be maintained in every consular office of every country to which the shipments are sent. It will then be necessary to check up to see that the amount of shooks shipped out of our country to a particular country corresponds to the amount that comes back from that country.

The difficulty with the amendment is: How are you going to keep track of the lumber? Every piece of lumber shipped to Canada, every piece of lumber shipped to Cuba, or to any other country, would have to be followed and traced to see that that same lumber was made into shooks and staves and came back in box form. Senators will understand what an almost impossible task that would be. Furthermore, it would lead, in the opinion of the Treasury Department, to many abuses. Foreign lumber would be used, and the claim made that it was American lumber, and foreign lumber in this form would supplant American lumber and come in free of duty.

I state these facts to show the Senate the difficulties that may arise. However, I think the proposition presented by the Senator is one which is entitled to further study and consideration, and so far as I am concerned, I shall not object to the amendment being agreed to, and let it go to conference for consultation with my colleagues on the conference committee and the House conferees.

Mr. SCHWELLENBACH. Mr. President, I certainly appreciate the attitude of the Senator from Massachusetts.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington [Mr. SCHWELLENBACH] on page 43, line 21, after the word "including", to insert "lumber" and a comma.

The amendment was agreed to.

Mr. WALSH. Mr. President, for the information of the Senate, and those interested in the details of the bill, especially in view of the fact that many of the sections are technical and involved, I ask that portions of the committee report upon the bill be printed in the RECORD.

There being no objection, portions of the report (No. 1465) were ordered to be printed in the RECORD, as follows:

GENERAL STATEMENT

The primary purpose of H. R. 8099, a bill to amend certain administrative provisions of the Tariff Act of 1930, and for other purposes, is to remove certain statutory obstacles to the efficient administration of the customs laws by the Customs Service of the Treasury Department. As its title indicates, the bill is an administrative bill. It does not deal with duty rates and all attempts to make duty amendments to it were vigorously repelled by your committee, as they were in the House by the Ways and Means Committee. The enactment of H. R. 8099 has been strongly recommended to Congress by the Treasury Department and the bill is in accord with the program of the President.

A subcommittee of the Finance Committee held extensive public hearings on H. R. 8099, at which representatives of the Treasury Department, domestic industries, and American importers appeared and testified. A considerable number of amendments were proposed to the bill at these hearings. The Finance Committee carefully sifted the proposed amendments and adopted those which it believed to be meritorious. These have been set out above.

As the bill is now reported, all controversies between particular groups interested in this legislation have been minimized and there remain but few provisions concerning which there is any difference of opinion.

As stated, the primary purpose of H. R. 8099 is to facilitate efficient administration of the customs laws. It cannot be termed an importers' bill nor can it be characterized as a domestic manufacturers' bill. Such benefits as will accrue to either group are purely incidental to an increase in administrative efficiency. Besides the primary purpose of facilitating more efficient administration of the customs laws, the other major purposes of H. R. 8099 may be briefly summarized as follows:

(1) To restate the customs and other laws with the administration of which the Customs Service is charged, in certain instances where this may be profitably done in such a manner as will simplify their interpretation and administration.

(2) To fill in gaps in existing law to relieve administrative difficulties.

(3) To suppress abuses which have, in a few instances, grown up under existing law, and which cannot be corrected by administrative practice.

(4) To liberalize the laws in certain desirable respects where this will facilitate administrative efficiency without jeopardizing the revenue of the United States or the interests of the public.

Section 1: This section gives the act a short title, the "Customs Administrative Act of 1938."

Section 2: This section excludes Wake Island, Midway Islands, and Kingman Reef from territory in which our general tariff laws are applicable. Supplies are to be landed on these islands for an American commercial air line and its employees but not for commercial purposes, and the expense of customs administration would not be justified.

Section 3: This section is a revision of the law requiring imports to be marked to indicate the country of their origin. Section 3 requires each imported article, or its container, to be marked in a conspicuous place to inform the ultimate purchaser as to the origin of the article, eliminating the present requirement that the article and its immediate container and the outer package be marked. It eliminates the question as to whether marking requirements are mandatory or discretionary by definitely making them mandatory. It provides exceptions for marking requirements where such exceptions can be justified on the basis of administrative experience. It provides that the 10-percent additional marking duty shall not apply if goods are marked after importation but before entry into the commerce of this country. It retains the penal provisions against defacing or obliterating marking to indicate the origin of imports.

Section 4: This section extends the privilege of temporary free importation under bond to include (1) all articles to be exported after being changed in condition otherwise than by alteration or repair but not in such manner that draw-back of duty could be obtained on exportation; (2) private automobiles, motorcycles, etc., to be used for business purposes; (3) locomotives or other railroad equipment temporarily brought into the United States to meet an emergency; (4) professional equipment, tools of trade, and camping equipment to be used temporarily by nonresidents; and (5) articles of special design for temporary use exclusively in connection with the manufacture or production of articles for export.

Section 4 also extends the present practice of permitting the Secretary of the Treasury to defer for 90 days the exaction of a bond in the case of temporary free importations of horses, automobiles, and boats so as to permit the Secretary to defer requiring such a bond for 6 months in the case of any horse, automobile, or boat entering the United States from any country which accords a similar privilege to horses, automobiles, and boats from the United States.

Section 5: This section (a Senate committee amendment) extends the exemptions from customs duties and internal-revenue tax on articles of foreign or domestic manufacture or production withdrawn from bonded warehouses or bonded manufacturing warehouses for supplies (not including equipment) to foreign vessels employed in certain classes of trade in order to remove a conflict with certain treaty obligations of the United States, for example, with Norway. It also authorizes the duty-free and tax-free withdrawal of imported articles for supplies (not including equipment) of aircraft registered in the United States and engaged in certain classes of trade, or for supplies (including equipment), maintenance, or repair, of foreign aircraft engaged in such classes of trade. The privilege is extended to foreign aircraft on a basis of reciprocity.

Section 5 also extends full draw-back privileges to supplies (not including equipment) for the foreign and domestic vessels and domestic aircraft and to supplies (including equipment) and articles for maintenance or repair of the foreign aircraft.

The section provides for assessment of duties and taxes on articles in connection with which the drawback or exemption privileges of section 309 or of section 317 of the tariff act (relating to exemption from internal-revenue taxes) have been allowed and which shall thereafter be returned to the United States.

Section 317 of the tariff act is amended to conform to section 309.

Section 6: This section revises existing law to state the established rule that when duties on imports depend upon the quantity of goods imported, such quantity is to be ascertained as of the time of importation, except where the law makes other provision for special cases.

Section 6 also provides that no administrative ruling resulting in the imposition of a higher rate of duty or charge except under the Anti-Dumping Act shall be effective prior to the expiration of 30 days after the date such ruling is published.

Section 7: This section authorizes existing practices under which collectors of customs disregard differences of less than $1 between the total duties or taxes deposited or tentatively assessed and the amount of duties actually accruing.

It also gives collectors discretionary authority to admit articles free when the expense and inconvenience of collecting duty would be disproportionate to the amount of such duty, but not exceeding $5 worth of goods in any one day in the case of articles accompanying, and for the personal or household use of, persons arriving in the United States or $1 in any other case. This is in accord with the present practice.

Section 8: This section amends the definitions of bases of valuation to be used for customs appraisals to eliminate the requirement established by a recent court decision that sales to third countries must be considered by appraisers.

Section 9: This section provides for the payment of overtime compensation in all cases where customs employees perform services outside regular hours of business for private interests, the expense to be borne by the person requesting such services. Such compensation is now authorized in most, but not all, such cases. Services on highway bridges and tunnels are excepted since such services are performed by customs employees on regular tours of duty.

Section 10: This section restates patchwork law in a clearer manner and covers gaps in existing law by imposing penalties on persons who bring in merchandise from a contiguous country otherwise than in a vessel or vehicle and do not report the arrival of such merchandise to customs, or who fail to obtain a permit from customs before proceeding inland, or who carry passengers beyond a customs station without reporting.

Section 11: This section adds a new provision to the tariff act to authorize the inspection, examination, and search of persons, baggage, or merchandise discharged or unladen from a vessel arriving in the United States or the Virgin Islands from a foreign port or place or from a port or place in any Territory or possession of the United States, whether directly or via another port or place in the United States or the Virgin Islands, and whether or not any or all of such persons' baggage or merchandise has previously been examined or inspected by customs officers.

Section 12: This section authorizes the Secretary of the Treasury to permit separate entries for portions of one shipment of imported merchandise. A single entry for each shipment has heretofore been required.

Section 13: This section (a Senate committee amendment) provides that agents of individuals or partnerships may sign consignees' declarations, where such agents have actual knowledge of the facts alleged in the declaration. Under existing law such declarations may be signed by agents only if the consignee is a corporation.

Section 14: This section restates existing law providing that imported merchandise for which entry has not been completed within 1 year shall be regarded as abandoned to the Government, and covers the administrative practice of permitting such merchandise and merchandise regarded as abandoned because not withdrawn from warehouse within the statutory period to be released to the consignee upon payment of duties and charges at any time prior to sale. It also settles any doubt as to when certain classes of goods are to be regarded as abandoned and as to the rate of duty applicable when the law is changed between the date of abandonment and the date of release to the consignee.

Section 15: This section makes express provision for requiring a bond to insure compliance with all laws and regulations (governing the admission of merchandise into the commerce of the United States) with respect to the packages of an importation which are released to the importer before examination and appraisement is made on the basis of the representative packages retained for that purpose.

Section 16: This section provides that a special regulation or instruction permitting examination of less than the usual 10 percent of each importation may be applicable at one or more ports, to one or more importations, or to one or more classes of merchandise. Court rulings that such regulations under existing law must have general application have seriously interfered with customs administration. Section 16 also provides that no appraisement shall be held invalid because less than the statutory quantity of merchandise was examined unless the party claiming such invalidity can show that an incorrect appraisement resulted from the failure to examine additional goods.

It provides further that when the appraisement of an importation is held to be invalid the United States Customs Court must find the proper dutiable value of the goods.

Section 17: This section revises the law with respect to protests by American manufacturers, producers, and wholesalers against rates of duty assessed on imports competing with their product. Under the new law importers may import their merchandise upon payment of duties in accordance with Treasury findings until a prima facie case against the correctness of such findings is made by a judicial decision adverse to the Treasury's findings. Such protests are given a preferred status on the dockets of the customs courts.

Section 18: This section restates the law with respect to refunds and errors, with minor changes designed to express more precisely the established interpretation of existing law. It places a 1-year limitation upon the time within which an erroneous assessment of

duty on personal or household effects may be corrected without a formal protest having been filed.

Section 19: This section (Senate committee amendment) repeals those provisions of existing law which require comptrollers in effect to duplicate the work of collectors by verifying all assessments of duties and allowances of drawbacks made by collectors in connection with the liquidation thereof. It provides a legal means whereby unnecessary duplication can be avoided. This elimination of work duplication will release manpower for the performance of essential functions, without increasing appropriations for such purposes, and will expedite the closing of customs transactions. The amendment does not contemplate or authorize the discontinuance of the offices of comptrollers of customs or any reduction of customs personnel.

Section 20: This section provides that the expenses of customs officers in connection with admeasurement of vessels at places other than a customs port of entry shall be borne by the owners of the vessels, and that all reimbursements of expenditures from customs appropriations shall be deposited to the credit of the appropriation from which they were paid.

Section 21: This section provides that taxes on imports shall be construed to be customs duties only if the law under which they are imposed provides that they shall be treated as customs duties. In a recent case an internal-revenue tax was held to be a duty for the purpose of an exemption provided in the tariff law that had never before been construed to apply to an internal-revenue tax. This section is designed to overrule that case and its serious implications. It is not aimed at the jurisdiction of the customs courts and to allay fears which have been expressed in this respect; this section provides that it shall not be construed to limit or restrict the jurisdiction of the United States Customs Court or the United States Court of Customs and Patent Appeals.

Section 22: This section authorizes the Secretary of the Treasury to permit merchandise in transit through the United States, now required to be carried by a common carrier, to be carried otherwise than by a common carrier if no common-carrier facilities are reasonably available.

Section 23: This section expressly provides for existing administrative practices with respect to the transfer of the right to withdraw imports entered for warehouse; provides that such transfers shall be irrevocable in defined circumstances; and defines the customs rights of the transferee. A provision is also incorporated covering the administrative practice of permitting merchandise to be withdrawn for transfer to another bonded warehouse at the same port.

The words "or elsewhere" (added by a Senate committee amendment) will eliminate a possible objection to the withdrawal of goods from warehouse for transportation and rewarehousing in customs bonded warehouses established elsewhere than within the limits of a port of entry. There are at the present time several customs bonded warehouses established elsewhere than within the limits of ports of entry, including certain grazing areas bonded for the storage of livestock.

Section 23 also authorizes the refund of full duties when merchandise is exported on which duties have been paid and which has remained continuously in customs custody while in this country. Present law authorizes the refund of only 99 percent of the duties. The change will eliminate an administrative problem and make the provision affected conform with the provision of present law authorizing the refund of 100 percent of duties when duty-paid merchandise is destroyed under customs supervision.

Section 24: This section eliminates the provision in existing law (first adopted in the 1930 Tariff Act) limiting the storage of imported grain in bonded warehouses to a period of 10 months. It will thus place imported grain in the same status as other imported merchandise by extending the permissible storage period in bonded warehouses to 3 years. The 10-month limitation was originally adopted to afford more storage space for domestic grain. In recent years, with smaller crops, there has been little justification for the limitation. Section 24 will apply to grain imported prior to its effective date as well as thereafter.

Section 25: This section restates the law prohibiting the refund or remission of duties by reason of exportation after imports are released from customs custody to include exceptions established by court decisions and administrative practices.

Section 26: This provision (a Senate committee amendment) permits importers under certain circumstances to manipulate merchandise elsewhere than in a bonded warehouse. The requirement in section 562 of the Tariff Act of 1930 that the manipulation of imported merchandise authorized therein be done in bonded warehouses established for that purpose has subjected importers to expense not necessary for the protection of the revenue. This provision remedies this situation and will facilitate the movement and handling of imported merchandise with safety to the revenue and without interference with the proper conduct of customs business.

Section 27: This section covers a gap in existing law by making it a crime for any unauthorized person to put a customs seal, fastening, or mark on any warehouse or package containing merchandise or baggage, or willfully to assist or encourage another so to do.

Section 28: This section amends the law relating to reports by customs field officers of violations of law to provide that such reports shall be made to the United States attorney only if action by him will be required, and to eliminate a requirement that such reports be made to the Solicitor of the Treasury, an office which has been abolished.

Section 29: This section amends the law relating to the disposition of customs seizures to conform to recent laws prohibiting the sale at auction of certain classes of seized goods.

Section 30: This section changes the law relating to disposition of the proceeds from the sale of customs seizures to eliminate any basis for a claim that any part of such proceeds is available to cover duties on the seized goods, which can be collected from the importer, and thereby relieve the importer from liability for duties.

Section 31: This section further clarifies the authority of the Secretary to exact security in cases where no express statutory authority exists to include cases not only where such bonds are required for the protection of the revenue but also in order to assure compliance with noncustoms laws and regulations enforced by customs officers.

It provides that a consolidated bond (single entry or term), in lieu of separate bonds, may be taken to assure compliance with two or more provisions of law. It authorizes cancelation of a bond in the event of a breach of a condition thereof without payment of any penalty in cases where a violation is entirely a technical one or without any real culpability on the part of the importer.

Section 32: This provision (a Senate committee amendment) is designed to overcome a ruling that where several bricklike units of dates, each weighing less than 10 pounds, are packed in one container, such dates are not subject to the duty now provided in paragraph 741 of the Tariff Act of 1930 for dates "in packages weighing with the immediate container not more than 10 pounds each." This provision will affect the original intent of the Congress that the packing of dates under sanitary conditions in this country should be encouraged.

Section 33: This provision (a Senate committee amendment) extends from 5 to 30 days after delivery of liquors the period during which verification of loss must be made by an affidavit of the importer.

Section 34: Existing law provides that certain kinds of wool may be admitted without payment of duty under bonds conditioned upon the production within 3 years of proof that the wool so admitted has been used in the manufacture of carpets or other enumerated articles. If such proof is not so furnished, regular duties accrue, and if the wool has been used in the manufacture of other articles, a penalty of 50 cents per pound also accrues.

Two principal difficulties have been encountered in the administration of this statute, (1) the practical impossibility of identifying the articles made from particular lots of imported wool so that the time limitation in the statute may be observed; and (2) the difficulty of determining whether certain products resulting from the processing of imported wool into carpets or other enumerated articles are normal wastes so that the wool represented by such products may be considered to have been used in the manufacture of the enumerated articles, in compliance with the conditions of the bond.

Section 34 is reported by the Senate Finance Committee in the same form in which it passed the House. It is designed to continue the policy indicated by the Congress in the 1922 and 1930 Tariff Acts and consistently applied by the Treasury Department since 1922. It does not apply duties to products heretofore exempted from duty, nor does it grant any new exemptions. Its sole purpose is to eliminate administrative difficulties and to restate the law in a manner susceptible of practical administration.

Section 34 will (1) eliminate the present requirement that proof be furnished within a specific time as to the identified use of particular importations and substitute in lieu thereof a system of control by bonds, penalties, and regulations to prevent the use at any time of conditionally free importations otherwise than in the manufacture of the enumerated articles unless full duties are promptly paid; and (2) establish with certainty the tariff status of all byproducts and residues not used in making the enumerated articles by prescribing the duties to be imposed upon such materials, unless they are wastes in such condition that such use is in the usual course of manufacture commercially impracticable.

The section also authorizes the continuance of the existing administrative practice of assessing duty on noils (a type of commercial usable long staple waste) diverted from manufacture of the enumerated articles.

Section 35: Subsection (a) of this section eliminates the phrase "of blanketing," from paragraph 1111 of the Tariff Act of 1930. This will correct a ruling of the customs courts holding that steamer rugs were excluded from classification under paragraph 1111 because the blanketing material of which they were composed had had no separate existence as blanketing before the rugs were made. The change will continue the administrative practice of several years and effect the original intent of the Congress.

Subsection (b) of this section (a Senate committee amendment) is designed to permit wool felt hat bodies to be assessed under the rate provided for in paragraph 1115 (b) as had been the practice since the enactment of the 1930 Tariff Act until a very recent decision of the United States Court of Customs and Patent Appeals, holding that in the production of certain wool felt hat bodies, wool felt did not exist as an entity until the completion of the hat bodies and that accordingly, since such hat bodies were not "manufactured wholly or in part of wool felt" they were assessable under paragraph 1115 (a) rather than 1115 (b). The amendment, which is very similar to that made by

subsection (a) of section 35, will effect the original intent of Congress.

Section 36: This section consolidates the tariff provisions relating to the free entry of American goods returned after having been exported. It eliminates the present requirement that to be entitled to free entry the goods must be imported by or for the account of the person who exported them. It extends the privilege of free return of containers of merchandise to new kinds of containers of foreign origin which have once paid duty. It provides that domestic products exported with benefit of drawback of duties paid on component materials or without payment of internal-revenue taxes may be returned under conditions no less favorable than those applicable at the time of importation to like articles of foreign origin. It extends the treatment now accorded articles exported to be repaired to articles exported to be altered.

Section 37: This section restates existing law relating to the free entry of articles not exceeding $100 in value brought in by returning residents to conform with certain decisions of the courts; to facilitate the identification of merchandise entitled to free entry; and to require absence from the United States for not less than 48 hours before the privilege of free entry may be enjoyed. This section (under a Senate committee amendment) will also limit to 100 the importation of cigars by returning residents duty free under the $100 exemption. This is comparable to the limitation in existing law that only 1 wine gallon of liquor can be brought in under the $100 exemption.

Section 38: This section provides that the bill shall be effective 30 days after its enactment except as otherwise provided in the bill.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H. R. 8099) was read the third time and passed.

ORDER FOR EXECUTIVE SESSION ON TUESDAY NEXT

Mr. BARKLEY. Mr. President, earlier in the day the Senate agreed to vote on the Burlew nomination at 15 minutes after 12 o'clock noon on Tuesday next. In order that no time may be wasted during those 15 minutes, if any Senator wishes to discuss the nomination during that period, I ask unanimous consent that when the Senate meets on Tuesday it meet in executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONVEYANCE TO WILMINGTON, N. C., MARINE HOSPITAL RESERVATION

Mr. BARKLEY. Mr. President, I ask unanimous consent for immediate consideration of House bill 8654, which was today favorably reported by the Committee on Public Buildings and Grounds.

The PRESIDING OFFICER. Is there objection?

There being no objection, the bill (H. R. 8654) to amend the act entitled "An act authorizing the Secretary of the Treasury to convey to the city of Wilmington, N. C., Marine Hospital Reservation," being chapter 93, United States Statutes at Large, volume 42, part 1, page 1260, approved February 17, 1923, was considered, ordered to a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That chapter 93, United States Statutes at Large, volume 42, part 1, page 1260, approved February 17, 1923, being an act authorizing the Secretary of the Treasury to convey to the city of Wilmington, N. C., Marine Hospital Reservation, be, and the same is hereby, amended by striking out the last 28 words thereof and inserting in lieu thereof the following, to wit: "198 feet south of the south line of Church Street."

CONVEYANCE TO BOARD OF EDUCATION OF NEW HANOVER COUNTY, N. C.

Mr. BARKLEY. Mr. President, I also ask unanimous consent for the immediate consideration of House bill 9418, a bill of similar nature to the one just passed.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kentucky?

There being no objection, the bill (H. R. 9418) to amend an act entitled "An act authorizing the Secretary of the Treasury to convey to the Board of Education of New Hanover County, N. C., portion of marine-hospital reservation not needed for marine-hospital purposes", approved July 10, 1912 (37 Stat. 191), was considered, ordered to a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized to amend the quitclaim deed which was executed by the Secretary of the Treasury under date of July 24, 1912, pursuant to the authority contained in an act entitled "An act authorizing the Secretary of the Treasury to convey to the Board of Education of New Hanover County, N. C., a portion of the marine-hospital reservation not needed for marine-hospital purposes", approved July 10, 1912 (37 Stat. 191), so as to provide, in lieu of the limitation that the land is to be "used exclusively for industrial-school purposes", that it may be used for any public purpose or purposes, and to provide that the title to said land revert to the United States of America if at any time the land or any building erected thereon shall cease to be used for a public purpose.

RECESS TO TUESDAY

Mr. BARKLEY. Mr. President, inasmuch as the consent of the Senate has already been secured for the Finance Committee and the Appropriations Committee to make reports during the recess, I simply wish to say that unless the Appropriations Committee reports by Tuesday or on Tuesday, there will be no other business, so far as I can foresee, on Tuesday, except the vote on the confirmation of Mr. Burlew. It is generally understood that the tax bill will not be taken up until Wednesday. So that if there is no appropriation bill ready for Tuesday there will be very little business to transact. It is hoped that the Interior Department bill will be ready, and also the War Department bill, in which event both of them may be disposed of on Tuesday, as I understand there is no controversy over either one of them.

With that announcement I move that the Senate take a recess until 12 o'clock noon on Tuesday next.

The motion was agreed to; and (at 4 o'clock and 45 minutes p. m.) the Senate took a recess until Tuesday, April 5, 1938, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 1 (legislative day of January 5) 1938

APPOINTMENTS TO TEMPORARY RANK IN THE AIR CORPS IN THE REGULAR ARMY

Kenneth Campbell McGregor to be major.
Roland Birnn to be major.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

Maj. Lester Smith Ostrander to Adjutant General's Department.
First Lt. William Lewis McCulla to Ordnance Department.
First Lt. Frederick Raleigh Young to Ordnance Department.

PROMOTION IN THE REGULAR ARMY

Edwin Forrest Carey to be major, Air Corps (temporary major, Air Corps).

POSTMASTERS

NORTH CAROLINA

T. Coleman Galloway, Brevard.
Berder B. Long, Cullowhee.
John W. Coleman, Greensboro.
Frederick R. Jones, Hayesville.
May Calvert, Jackson.
Paul Green, Thomasville.
William H. Stearns, Tryon.
Wilbur R. Dosher, Wilmington.

HOUSE OF REPRESENTATIVES

FRIDAY, APRIL 1, 1938

The House met at 12 o'clock noon.

Rev. Theodore Beck, chaplain of the American Legion, Williamsport, Pa., offered the following prayer:

Almighty God, our gracious Heavenly Father, we lift up our hearts in grateful recognition of Thy constant goodness unto us, Thy children.

Thou hast surrounded us with Thy providential care and made all things work together for good to those that love the Lord.

In this troubled, war-torn world, turned upside down with its antagonistic views and opinions, we are led more and more to Jesus Christ our Savior to seek comfort and strength.

With the heart of the world heavy and sad in its distress and storm, we turn confidently to the Master of the Galilean winds and waves.

We lift our voices in thanksgiving that Thou hast provided a haven of rest and refuge here in the United States where men and women are permitted to think their own way out.

We rejoice in this land of liberty and freedom with its right to worship God according to the dictates of our own conscience.

We are deeply thankful for the blessing and privilege of the initiative and individuality that has been handed down to us by the wisdom and courage of our fathers.

We are truly thankful for this great body of men and women electives of the people who in legislative, executive, and judicial departments of our Government have so ably and heroically addressed themselves to the stupendous task of safely guiding the Ship of State through the Scylla and Charybdis of present-day world affairs.

Be with us now. Our only hope is in Thee.

We ask Thee to bless, guide, strengthen, and inspire these great men of our Nation gathered here in our Capital City with the yearning eyes of the millions focused upon them. Never have heavier burdens been placed upon the shoulders of national leaders. God help them; they need Thee. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Frazier, its legislative clerk, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H. R. 1355. An act for the relief of Lawrence E. Thomas;

H. R. 3657. An act for the relief of Albert Pina Afonso, a minor;

H. R. 3776. An act for the relief of T. T. East and the Cassidy Southwestern Commission Co., citizens of the State of Texas;

H. R. 4221. An act for the relief of John M. Fuller;

H. R. 4229. An act for the relief of Clifford Belcher;

H. R. 6061. An act for the relief of Mary Dougherty;

H. R. 6232. An act for the relief of Frank Christy and other disbursing agents in the Indian Service of the United States;

H. R. 6467. An act for the relief of the Portland Electric Power Co.;

H. R. 7676. An act for the relief of the Complete Machinery & Equipment Co., Inc., and others;

H. R. 8432. An act to provide for a flowage easement on certain ceded Chippewa Indian lands bordering Lake of the Woods, Warroad River, and Rainy River, Minn., and for other purposes;

H. R. 8885. An act for the benefit of the Goshute and other Indians, and for other purposes;

H. J. Res. 499. Joint resolution authorizing the erection of a memorial to the late Guglielmo Marconi; and

H. J. Res. 594. Joint resolution directing the Federal Trade Commission to investigate the policies employed by manufacturers in distributing motor vehicles, accessories, and parts, and the policies of dealers in selling motor vehicles at retail, as these policies affect the public interest.

The message also announced that the Senate had passed, with amendments, in which the concurrence of the House is requested, bills of the House of the following titles:

H. R. 2904. An act for the relief of officers and soldiers of the volunteer service of the United States mustered into service for the War with Spain and who were held in service in the Philippine Islands after the ratification of the treaty of peace, April 11, 1899;

H. R. 7104. An act for the relief of the estate of F. Gray Griswold;

H. R. 7448. An act to provide for experimental air-mail services to further develop safety, efficiency, and economy, and for other purposes; and

H. R. 7836. An act to amend the Agricultural Adjustment Act, as amended, by including hops as a commodity to which orders under such act are applicable.

The message also announced that the Senate had passed bills, a joint resolution, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 589. An act prohibiting the operation of motor vehicles in interstate commerce by unlicensed operators;

S. 945. An act for the relief of the Community Investment Co., Inc.;

S. 1464. An act for the relief of Lena Sumter;

S. 2541. An act for the relief of the estate of George Ehret, Jr.;

S. 2777. An act for the benefit of the Goshute and other Indians, and for other purposes;

S. 2819. An act to create a Committee on Purchases of Blind-Made Products, and for other purposes;

S. 2825. An act to enable the Department of Agriculture to prevent the spread of pullorum and other diseases of poultry and to cooperate with official State agencies in the administration of the national poultry-improvement plan, and for other purposes;

S. 2833. An act conferring jurisdiction upon the Court of Claims to rehear and enter judgment upon the claim of Cohen, Goldman & Co., Inc.;

S. 2933. An act to admit Mrs. Henry Francis Parks permanently to the United States;

S. 2946. An act to amend an act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1910, and for other purposes," approved March 3, 1909, as amended, so as to extend commissary privileges to civilian officers and employees of the United States at naval stations beyond the continental limits of the United States or in Alaska;

S. 2967. An act authorizing the Comptroller General to settle and adjust the claim of Tiffany Construction Co.;

S. 3005. An act to confer jurisdiction on the Court of Claims to hear and determine the claim of the A. C. Messler Co.;

S. 3105. An act to amend the Commodity Exchange Act, as amended, to extend its provisions to wool tops;

S. 3174. An act to provide that crops needed for seeding purposes shall be released from the liens required by the act providing for crop loans for the year 1937;

S. 3188. An act for the relief of the Ouachita National Bank, of Monroe, La.; the Milner-Fuller, Inc., Monroe, La.; estate of John C. Bass, of Lake Providence, La.; Richard Bell, of Lake Providence, La.; and Mrs. Cluren Surles, of Lake Providence, La.;

S. 3255. An act to provide for the establishment of a mechanism of regulation among over-the-counter brokers and dealers operating in interstate and foreign commerce or through the mails, to prevent acts and practices inconsistent with just and equitable principles of trade, and for other purposes;

S. 3290. An act to impose additional duties upon the United States Public Health Service in connection with the investigation and control of the venereal diseases;

S. 3319. An act to authorize certain payments to the Veterans of Foreign Wars of the United States, Inc., and to the Disabled American Veterans of the World War, Inc.;

S. 3379. An act for the relief of Arthur T. Miller;

S. 3525. An act to amend the act entitled "An act to extend the benefits of the Civil Service Retirement Act of May 29, 1930, as amended, to certain employees in the legislative and judicial branches of the Government", approved July 13, 1937;

S. 3526. An act to provide for reimbursing certain railroads for sums paid into the Treasury of the United States under an unconstitutional act of Congress;

S. J. Res. 205. Joint resolution providing for adjustment payments and loans to cotton producers with respect to cotton produced in 1937; and

S. Con. Res. 28. Concurrent resolution authorizing the Special Committee to Investigate Unemployment and Relief, United States Senate, to have printed for its use additional copies of the hearings on the resolution (S. Res. 36) creating a Special Committee to Investigate Unemployment and Relief.

EXTENSION OF REMARKS

Mr. TREADWAY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing an address I delivered last Monday in Boston before a group of certified public accountants.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. DIRKSEN asked and was given permission to revise and extend his own remarks in the RECORD.

PERMISSION TO ADDRESS THE HOUSE

Mr. SCOTT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. SCOTT. Mr. Speaker, on the 29th of March the gentleman from Michigan, in answer to remarks I had made on the floor asking for an investigation of the District Medical Society and American Medical Association, said that he would like to include an investigation of the Group Health Association. That is perfectly all right with me, but he said at the same time that this was purely a local issue. In answer to that, Mr. Speaker, I wish to read this statement, after carefully considering the implications of it.

Mr. Speaker, I have it on good authority that the President of one of the leading universities has sent word to a Member of the United States Senate that, in his judgment, our move to investigate the affairs of the American Medical Association should be pushed through as rapidly as possible.

This university president states that due to the domination by a small group of doctors controlling medical educational institutions and the hospitals connected with such institutions, important progress in the training of medical practitioners is being constantly obstructed. In the judgment of this university head, freedom of action on the part of university executives and university trustees is being hampered and in some cases actually denied by the same dominant group of physicians who are obstructing the growth of cooperative health groups.

In the course of his address to the House yesterday afternoon, my colleague from Michigan spoke in defense of the Medical Society of the District of Columbia in its controversy with Group Health Association, Inc., and urged that the investigation proposed by resolution, which I submitted to the House on Monday and which he favored, be extended to include an investigation of Group Health Association.

I am of the opinion that it is wise and desirable to include in our investigation the activities of the Group Health Association, because it is inconceivable to me that we shall get to the bottom of this controversy without a careful examination of the Group Health Association and its efforts to serve its members by enlisting the cooperation of members of the District Medical Society and of the trustees and medical staffs of our local hospitals.

My colleague and the other Members of the House will be interested, in this connection, to have attention called to the letter of Congressman JED JOHNSON to the Chairman of the Federal Home Loan Bank Board, under date of February 2, 1938, and the reply of the Chairman to my colleague from Oklahoma, under date of February 15, 1938. Copies of both letters were referred to by the Congressman from Oklahoma in his remarks before the House on Wednesday, February 15, 1938, and both letters appear in full in the CONGRESSIONAL RECORD of that date. In his letter, to which I refer, the Chairman of the Federal Home Loan Bank Board stated:

> We welcome full investigation of the matter by Congress and believe that development of the facts by such an inquiry would serve a most useful public purpose.

From others who are interested in and identified with the Group Health Association, it is evident that they, too, welcome a full and complete investigation of the Group Health Association and that we shall have the hearty cooperation of the Group Health Association in bringing to the attention of Congress the facts in which it is interested.

Those of you who are interested in the problems of medical care will recall that the President, by Executive order on October 27, 1936, created an Interdepartmental Committee to Coordinate Health and Welfare Activities of the Federal Government. He named a committee of five, consisting of Miss Josephine Roche, Assistant Secretary of the Treasury, as chairman; Arthur J. Altmeyer, member of the Social Security Board; Oscar L. Chapman, Assistant Secretary of the Interior; Milburn L. Wilson, Assistant Secretary of Agriculture; and Edward F. McGrady, Assistant Secretary of Labor. That Committee was charged by the President:

> 1. To continue to sponsor appropriate cooperative working agreements among the various agencies of the Government in the health and welfare field, and to continue the work under agreements already in effect; and
>
> 2. To study and make recommendations concerning specific aspects of the health and welfare activities of the Government looking toward a more nearly complete coordination of the activities of the Government in these fields.

A few weeks ago this Committee, through its technical committee on medical care, published its first report, from which I quote:

> The Committee calls attention to the fact that illness precipitates large costs and enormous economic burdens, and that sickness is among the most important causes of economic and social insecurity. Sickness strikes at the basis of national vitality; the good health of the population is vital to national vigor and well-being. The accomplishments of the past in health conservation are therefore secondary to the needs of the present and of the future. While great advances have already been made, enormous needs still prevail. The amount of preventable sickness and disability which continues, the volume of unattended disease, the rate of premature mortality, and the prevalence of avoidable economic burdens created by sickness costs justify grave concern.
>
> Do the methods of public health and medical science offer no hope of further reducing the national burdens of illness? On the contrary, the Committee finds that the essential lack consists not in inadequate knowledge but in inadequate funds. Indeed, at some points, the resources exceed the need, but they are used to less than capacity, while people in need go without service. There are economic barriers between those in need of service and those prepared and equipped to furnish service. The essential inadequacy in respect to health services is not in our capacity to produce but in our capacity to distribute. The greater use of preventive and curative services which modern medicine has made available wait on the purchasing power rather than on the need of community or individual.
>
> As a nation, we are doing vastly less to prevent suffering and to conserve health and vitality than we know how to do through tried and tested methods. The committee is convinced that current activities are inadequate to assure the population of the United States such health of body and mind as they can and should have.

When, here in Washington, such an agency as Group Health Association is developed out of the mutual demand and cooperative activity of Federal employees, why is it opposed by local physicians? We ought to have the clear, basic answer to that question.

The gentleman from Michigan stated yesterday on the floor of the House that he regarded the controversy between Group Health Association and the Medical Society of the District of Columbia "as a purely local matter." From information supplied to the House within the past 2 weeks, it must be clear that the matter is not purely local but is part of a studied design of the American Medical Association, Medical Society of the District of Columbia, and numerous State and local societies acting in cooperation with the American Medical Association to eliminate and destroy the group health type of practice wherever it makes its appearance. I reported to you on Monday that a group of physi-

cians in Milwaukee, Wis., who were serving as doctors for the Milwaukee Medical Center were in serious difficulties because of the attack of their local medical society and the American Medical Association. This group of physicians have had the finest reputation in their community and have been members of the staffs of the leading hospitals of the city. When they undertook to supply medical care to the people of the city on an organized prepayment basis, they were expelled from their local medical society. I reported to you that they had appealed to the American Medical Society and were given a hearing before its judiciary council in June 1937, but that the council never announced any decision. Since I spoke to you about this case on Monday, I have been informed that the judicial council of the American Medical Association has finally announced its decision and has ruled that the group of doctors serving the Wisconsin Medical Center are violating the code of ethics of the American Medical Association and must, therefore, be expelled. It is understood that following their expulsion an effort will be made to remove them also from the medical staffs of the hospitals of Milwaukee in which they have served with great distinction and efficiency.

So that you may have additional facts concerning the conduct of a medical society, whose attitude I have not yet presented, may I submit copy of a statement by Mr. J. D. Strawn, secretary of the National Health Service Association of Cleveland, Ohio, in a letter to the Group Health Association under date of March 25? This is typical of many experiences in other parts of the country. I quote:

The National Health Service Association was organized in February of 1935 by Mr. George B. Durell, chairman of the board of the American Fork & Hoe Co. In addition to founding and financing it then, he has continued to finance the association and give generously of his time for the many problems. The principal problem being the reluctance of organized medicine to admit the urgent need of some plan to safeguard themselves and their profession from the overwhelming wave of criticism resulting from their inadequate style of performance.

The doctors as individuals and their association, the American Medical Association, are fully aware of the need for some adjustment, but they are unwilling to take the necessary step and are very emphatic in stating that no one else shall do it; therefore, we, the National Health Service Association, a corporation formed under the laws of the State of Ohio, not for profit, and providing medical, surgical, and hospitalization service to the public for $1 per month per individual, are being criticized to considerable extent by forces outside our organization but engaged in the same performance, viz, the doctors of organized medicine through their affiliation nationally with the American Medical Association, and locally, the Cleveland Academy of Medicine.

Recently the academy of medicine has seen fit to recognize our performance indirectly. This indirect manner has been in the form of requests to our doctor members to sever their connections with this association. Its claim is that we violate the ethics of the medical profession insomuch as we interfere with the free choice of physicians by our subscribers and that a lay group directs the affairs of the association. The academy claims that such an arrangement as we have is illogical, inconsistent where the best interest of the patient is concerned, and that it is not a feasible plan. We claim that it is logical and provides adequate medical service, and our past experience is an outstanding example that it is the most feasible plan in existence.

Four of our doctors, members of the academy, are being requested to sever their connections. These men are all connected with organized medicine and are thoroughly in accord with the performance they are rendering for the association. But because of the strong pressure brought to bear by the academy and the unwarranted coercion by certain academy members, they are reluctant to show a sufficient amount of resistance to maintain the necessary fortitude with us in presenting our defense to the academy.

Each and all of these men has, and always has had, the most profound regard for the high ideals and ethics of the profession, and each has and each will adhere to those ideals in his performance with us. We assert, and by reason of our own experience know it to be a fact, that the furnishing of medical service to the members of the National Health Service Association has been accomplished in the highest ethical manner and so as to not conflict with the code of ethics of the medical profession. We are willing and have at all times been willing to disclose to the medical profession through the Cleveland academy the result of our work and the feasibility and propriety of performing a medical service in conformity with the plan we have adopted. We have, without avail, endeavored to enlist the aid and cooperation of the academy in order that our type of practice, for which there is, in our firm conviction, a crying need, may not be attended by undue evils; and to that end, on the 18th day of June 1936, the manager of this association contacted by telephone Dr. Robert Dinsmore, president of the academy of medicine. The manager explained to Dr. Dinsmore that he would like the favor of a meeting in order that Dr. Dinsmore might be fully informed, and officially so, of the performance of this association, and that they no longer be required to satisfy themselves with information concerning us by way of gossip.

Dr. Dinsmore extended a very gracious and kindly spirit toward such an approach, and said, "I think your idea is very fine, and I will be glad to see you on Monday morning next week at 9:30, at which time I will not be occupied with other duties and we can have plenty of time undisturbed for the discussion."

The manager called in person at Dr. Dinsmore's office at the Cleveland clinic at 9:30 Monday morning. He waited until 11:30 and left without having seen Dr. Dinsmore. He heard the telephone operator inform Dr. Dinsmore that he was waiting, but received no excuse and was offered no explanation as to why the appointment was so rudely ignored. It is now 10 months since this affair, and there has yet been no offer of explanation for the discourtesy. As the manager had telephoned Dr. Dinsmore for the appointment, and before the Monday following when he visited the doctor's office, he wrote a detailed letter explaining who we were and what we did, in order that Dr. Dinsmore might have substantial facts before him and that it might save time in the coming conference. The receipt of this letter has never been acknowledged, and we make bold to assert that had Dr. Dinsmore, or the academy of medicine, at the time of the receipt of this letter taken sufficient courteous recognition of our gesture to them, they could have at least appointed a committee for the supervision of such work.

It has at all times been and still is, the desire of our association to work in a cooperative manner and as a part of organized medicine, and to apprise organized medicine of any and all of the facts concerning the form of practice engaged in by us. We stand ready, willing, and anxious to expose all of our books and records, and all of the data and information which we have gathered by reason of our several years of experience in furnishing a medical service to groups of small wage earners, who are members of our association, in order that a full and complete, and an unimpassioned study may be made, and a firm, abiding solution may be had of the vital problems facing, not only the medical profession, but the public as well.

The problem presented in this appeal is one which has long gone begging for a solution, and the action against our doctors by the academy of medicine, can form no part of an acceptable answer. Further, it will be difficult indeed to persuade reasonable men that the members of our association are not as much entitled to the benefits provided by us as are the employees of railroads and various industrial organizations.

The discussion of the needs of the small wage earners having adequate medical service at a rate they can afford to pay is hardly necessary, as so much has been written and spoken on that subject during recent years. We know it to be a fact that the subscribers to our service, because of their low wage scale, would not be able to provide for themselves medical attention for minor ailments and incipient conditions, and that negligence of these minor ailments might result in more serious conditions had they not used the service available to them.

It is the sincerest belief of the association that this form of preventive medicine is of far more value to the public than is the fact that there are available in the city of Cleveland some 2,000 doctors ready and willing to take these cases in the event they should choose to go to a doctor. The fact remains that a substantial percentage of these same doctors of Cleveland are not now making a sufficient living for them to be able to provide intelligent and competent advice to the patient if he did go to them. These subscribers have at their services through membership in our association the combined knowledge and performance of all our doctors, and we are sincere in our statement that they will be provided more competent medical and surgical advice than they would ever receive should they go to any one doctor in the city of Cleveland.

We, the National Health Service Association, very deeply regret this unfortunate controversy. It is not of our seeking, nor do we feel that we are violating the principle of ethics of the medical profession. We are well aware of the grave necessity for the form of practice which we are pursuing, and are also aware of the necessity that this practice be recognized by organized medicine. Organized medicine should also be sensitive to the demand for such performance. Thoughtful medical men and the public at large are aware of the necessity for an ethical and adequate plan to meet with the requirements of patients who are unable to pay the regular fees. These same people can pay a nominal sum and budget their payments over a period of time, and it is our members' desire to assist themselves in this manner, and not become wards of charity for their medical needs. We hope we may be pardoned for saying that we have thus far made great strides to assist the medical profession in solving this Nation-wide problem.

We believe that organizations of our type, handling pay patients on a periodical-pay plan, should be philanthropic and supervised by organized medicine for the following reasons: To safeguard the public in the furnishing of proper and adequate attention; to safeguard the medical profession at large against the unfair criticism which is now so prevalent due to the present plan the doctors have for basing their rate of pay, viz, ability of patients

to pay, or, in other words, basing a doctor's compensation upon the amount of income the patient has.

We know through our experience with this class of practice that there is an actual need for this form of medical service, and because of the need this form of medical service is here to stay, and there will be much expansion along this line. If this form of work can be fully recognized and properly guided by the medical profession, a great good can accrue, not only to that particular class of low-salaried people which is in need of service but also for the medical profession itself. It is possible to adequately pay doctors for work with this class of patients, where at the present time so many of the profession are carrying the burden of this service on their own financial shoulders. We further feel that by recognizing and approving of this form of work, we are making great strides forward in preventive medicine and can entirely put to rout those unethical doctors as well as the true quacks.

From this letter and other evidence which I have submitted in the course of my remarks during the past week, it must be clear that the controversy between Group Health Association and the Medical Society of the District of Columbia is not purely local. As a matter of fact, it extends throughout the United States. It involves the health and the economic welfare of a large number of our citizens. It involves the ethical conduct of a group of physicians who are in temporary control of local, State, and National medical associations. It involves the humane treatment of the sick, the possibilities of a more intelligent approach to the problems of health, not only through prepayment of medical expenses but through a more intelligent practice of preventive medicine. It involves our social progress and the welfare of millions of our citizens who in spite of the resources of the medical profession are still inadequately served. It involves as a matter of public policy the determination of the right of licensed physicians who are not members of the American Medical Association or its branches to enjoy the facilities of hospitals and the right to serve those who desire to employ them without ruinous interference and domination. It involves the decision as to whether the accumulated experience of the ages and the resources of our medical universities, hospitals, and endowed institutions are to be made more fully available to our citizens by methods of their choice and within their financial means.

Mr. GRAY of Indiana. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ANNOUNCEMENT OF FINLY H. GRAY'S RADIO ADDRESSES TO MEMBERS OF CONGRESS ON THE 1937 DEPRESSION

Mr. GRAY of Indiana. Mr. Speaker, in these near-closing days of Congress, when time is the essence of proceedings, I am taking advantage of the radio facilities to call attention and advise you respecting a certain particular measure of legislation which I consider of most vital importance.

I refer to a remedial measure and for relief from this and the 1929 depression. And for the purpose of making available such additional time and opportunity I am delivering a series of addresses from WOL radio station, Washington, D. C., speaking every Saturday evening at 9 p. m.

I am speaking on the cause and the remedy of panics and depressions in general, but more especially on the cause and a remedy for this and the 1929 panic. And I invite you to listen and hear me tomorrow, Saturday evening, at 9 o'clock, when I will speak on the particular phase, Where Industry First Fails When Panics or Depressions Come.

On the failure of the Hoover administration and Congress, after 3 years of blundering and doing nothing to remedy and relieve from the 1929 panic, and without restoring employment to the people, or the semblance of prosperity to the country, this administration and Congress was called and commissioned to restore normal conditions.

Now, after 6 years of borrowing and spending and piling up of a $15,000,000,000 debt, we are not only still in the shadows of the same Hoover 1929 panic, but we are writhing in the throes of another, this 1937 depression. And the combined evils of two depressions are now affecting the people of the country.

We now have a panic merger—the Hoover 1929 panic merged with this 1937 relapse or depression and with a merger of responsibility. The Hoover administration and this Congress are both equally and criminally responsible for allowing these two depressions to come.

But while two Congresses are responsible for these two blights upon Nature's bounty, only one, this Congress in power, is now responsible for their continuance. And this Congress will be justly and deservedly charged and held responsible to account by the suffering people of the country.

If this Congress is not already conscious of the responsibility for the continuance of these panics, it will soon be made fully conscious of this duty, obligation, and responsibility, resting collectively on this Congress as a body and upon every majority Member individually for the prompt relief from this depression.

If the Members of Congress today are so engrossed in Belshazzar's feast that they cannot see the handwriting on the wall they will see it tomorrow standing out in living, human letters, and bold relief, in chaos, turmoil, and disorder, menacing and threatening our form of government and our institutions of peace and civil life.

There was nothing done by the Hoover Congress to remedy and relieve from the 1929 panic and that Congress was deservedly retired from power and there has nothing more been done by this Congress than the Hoover Congress to bring about permanent and lasting relief, or more than a temporary respite at great sacrifice and cost of treasure.

In figurative language or speaking, we have been borrowing water to prime a pump in a dry well and we have lost our prime water without getting back any new water. What we want to do and what we should do is to replenish the water supply in the well and stop borrowing and pump priming.

There is a reason and a cause for this, as well as other panics, which can be analyzed and explained. And, I propose to explain the cause and to show that after these causes have operated, this and the 1929 panic was as sure to come as night is sure to follow the day.

This panic was caused by men. It is within the comprehension of men, can be analyzed and solved by men, can be remedied and relieved by men. To say panics and depressions are mysteries is a maneuver, an artful gesture to evade responsibility to the people, or is a cowardly mental retreat.

And there is a remedy, a relief for every human evil, abuse, and affliction. And there is a remedy for these depressions in rational means and methods. And this remedy can be promptly provided and put in force and operation and administered before the adjournment of this Congress.

And we do not require a new law to do it nor any new means or facilities to do it. We do not have to create or provide a single new office or public official nor any new office or different form of currency to provide full, adequate relief from this and the 1929 depression.

And to provide such full, adequate relief we do not have to kill a single pig, we do not have to disembowel a single mother swine, we do not have to slaughter a single dairy cow, nor plow up a single acre of wheat or cotton, and we do not have to borrow and pile up a $15,000,000,000 debt to do it.

With this depression growing more severe and unemployment increasing from day to day and threatening to equal the 1929 panic, it will be criminal neglect of public duty for this Congress to recess or adjourn before providing some adequate measure to relieve from and remedy these depressions.

[Applause.]

Mr. STACK. Mr. Speaker, I ask unanimous consent to proceed for 1 minute to make an observation.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. STACK. Mr. Speaker, I want to remind the distinguished Speaker, for whom I have a high personal regard and a lot of respect, that today is April Fool's Day. Maybe it is my birthday, but I do not want the Congress of the

United States made a fool of by railroading this reorganization bill through. [Laughter and applause.]

STATE, JUSTICE, COMMERCE, AND LABOR APPROPRIATION BILL, 1939

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 9544) making appropriations for the Departments of State and Justice, and for the judiciary, and for the Departments of Commerce and Labor, for the fiscal year ending June 30, 1939, and for other purposes, with Senate amendments, disagree to the Senate amendments, agree to the conference asked by the Senate, and that the Speaker appoint conferees.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. McMILLAN, TARVER, McANDREWS, RABAUT, CALDWELL, BACON, and CARTER.

EXTENSION OF REMARKS

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent to print in the RECORD a letter I wrote to the Secretary of the Treasury and his reply thereto.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BEITER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein certain letters and telegrams.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MOSER of Pennsylvania. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include a speech delivered by the Honorable Champ Clark in 1916.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentlewoman from Massachusetts?

There was no objection.

Mrs. ROGERS of Massachusetts. Mr. Speaker, I rise at this time to remind the House that this is the 1st day of April. I wish to thank the Speaker and the Members of the House for the passage of a resolution I introduced requesting the President to declare the month of April cancer-control month.

Mr. Speaker, I am sure the House will continue its good work with reference to the spread of information concerning cancer and its prevention. I know the members of the press will join with us in the self-dedicatory effort to stamp out this curse on humanity. It is estimated by the Cancer Control Council, and various authorities on the subject, that 50 percent of the deaths that have occurred from cancer could have been prevented had this educational campaign been started earlier. [Applause.]

[Here the gavel fell.]

Mr. BARTON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BARTON. Mr. Speaker, one of the first lessons I learned in advertising was taught me by the head of a great concern manufacturing radiators. He said to me, "Never advertise that our radiators don't leak. I do not want the word 'leak' or the idea of leaking to be associated in the public mind with our product in any way."

Mr. Speaker, night before last a certain gentleman got up in the middle of the night to associate with his name the words "dictator" and "dictatorship," thereby putting those words into the minds of 130,000,000 people, many of whom may never have thought of them before.

I do not know much about political strategy, but I do know that his national advertisement of the idea of dictatorship, like his use of the word "purchase" and his use of the word "feudalism," was bad advertising practice. [Laughter and applause.]

[Here the gavel fell.]

GOVERNMENT REORGANIZATION

Mr. COCHRAN. Mr. Speaker, I ask unanimous consent that the debate on the reorganization bill be concluded today; that the first hour be allotted to the gentleman from Massachusetts [Mr. GIFFORD] in order to even up the debate between the majority and minority side; further, that the debate be limited to 5 hours; that of the 4 hours remaining after the gentleman from Massachusetts [Mr. GIFFORD] has concluded, 2 hours be controlled by myself and 2 hours be controlled by the gentleman from New York [Mr. TABER], minority member of the committee.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. SWEENEY. Mr. Speaker, I object.

Mr. TABER. Mr. Speaker, will the gentleman withhold his objection a moment?

Mr. SWEENEY. I reserve it.

Mr. O'CONNOR of New York. Mr. Speaker, reserving the right to object, at the close of the session yesterday I understood the plan was that the gentleman from Massachusetts [Mr. GIFFORD] would be recognized for the first hour, the gentleman from Kentucky [Mr. FRED M. VINSON] was to be recognized the second hour, and I was given some assurances I would be recognized the third hour. It will take me an hour, I may say to the gentleman.

Mr. COCHRAN. Mr. Speaker, may I say to the gentleman from New York [Mr. O'CONNOR] I certainly could not yield him 1 hour. I would be perfectly willing to yield to him a reasonable time in keeping with what other Members have had. I think the gentleman from New York always makes a stronger speech when he makes a short speech than when he makes a long one.

Mr. O'CONNOR of New York. Perhaps I would not use the hour, but I have requests from Members to speak. As I said yesterday, this general debate justifies 3 or 4 days and that is probably what the Rules Committee would have fixed, as it has provided 16 hours general debate on many bills brought in here for consideration. If I were the gentleman I would not attempt to shut off general debate on this bill, and I would stop all attempts to try to jam this through before next week.

Mr. COCHRAN. I may say to the gentleman from New York I propounded this unanimous-consent request with the approval of the minority members of the committee.

Mr. TABER. Mr. Speaker, reserving the right to object to make a statement, out of the 2 hours assigned to me I shall try and allot a very considerable proportion of that time to gentlemen on that side of the aisle who are opposed to this bill.

Mr. MAY. Mr. Speaker, reserving the right to object for the purpose of propounding an inquiry of the chairman of the select committee, when these periods of time are allotted to the gentleman from Kentucky [Mr. VINSON], the gentleman from New York [Mr. O'CONNOR], and the gentleman from Massachusetts [Mr. GIFFORD], is it proposed that they consume the entire hour each, or do they propose to yield some of that time to other Members?

Mr. COCHRAN. No one has as yet consumed an hour, and I do not know that any Member will take an hour.

Mr. SWEENEY. Mr. Speaker, reserving the right to object, as the chairman of the Rules Committee has just stated, there should be full and extensive debate on this important measure. The Senate consumed 30 days on the antilynching bill. Now, the House is always the goat when it comes to a limitation of time.

This measure has excited the country more than any other piece of legislation in the last decade, and the gentleman knows that. Because of that, and because I believe we should have full and extensive debate lasting for a week or a month, if necessary, I object, Mr. Speaker.

Mr. COCHRAN. Mr. Speaker, I want to be entirely fair. I will propound another unanimous-consent request.

Mr. Speaker, I ask unanimous consent that general debate on this bill close today, that the first hour of debate be controlled by the gentleman from Massachusetts [Mr. GIFFORD] in order to even up the time, that the balance of the time be equally divided and controlled by the gentleman from New York [Mr. TABER] and myself, and that the debate be confined to the bill.

Mr. SWEENEY. I object, Mr. Speaker.

Mr. COCHRAN. Mr. Speaker, I move that general debate on this bill close tonight, that the first hour of debate be controlled by the gentleman from Massachusetts [Mr. GIFFORD], that the balance of the time be equally divided and controlled by the gentleman from New York [Mr. TABER] and myself, and that debate be confined to the bill.

Mr. O'CONNOR of New York. Mr. Speaker, I ask recognition on that motion.

Mr. MAPES. Mr. Speaker, a point of order.

Mr. COCHRAN. Mr. Speaker, I move the previous question.

Mr. O'CONNOR of New York. Mr. Speaker, I asked recognition before the previous question was moved.

The SPEAKER. The gentleman from Michigan makes a point of order, which the gentleman will state.

Mr. MAPES. Mr. Speaker, my understanding is that the motion is not in order until after the gentleman from Missouri has moved to go into the Committee of the Whole.

The SPEAKER. The Chair is of the opinion that the point of order made by the gentleman from Michigan is well taken. If the gentleman from Missouri moves to go into the Committee of the Whole, pending that motion the gentleman can then move to limit debate.

Mr. COCHRAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3331) to provide for reorganizing agencies of the Government, extending the classified civil service, establishing a general auditing office and a department of welfare, and for other purposes.

CALL OF THE HOUSE

Mr. SWEENEY. Mr. Speaker, I make the point of order a quorum is not present.

The SPEAKER. The Chair will count. [After counting.] One hundred and seventy-three Members are present, not a quorum.

Mr. COCHRAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 49]

Allen, La.	Ditter	Kramer	Shannon
Barden	Doughton	Long	Short
Beam	Douglas	Lucas	Smith, Maine
Biermann	Drewry, Va.	McGroarty	Smith, Okla.
Bland	Duncan	McKeough	Somers, N. Y.
Boehne	Fish	McLean	Sparkman
Boykin	Flannagan	McSweeney	Steagall
Boylan, N. Y.	Frey, Pa.	Maverick	Sutphin
Brewster	Gasque	Mitchell, Tenn.	Taylor, Colo.
Buckley, N. Y.	Gilchrist	O'Connor, Mont.	Taylor, Tenn.
Caldwell	Green	O'Leary	Teigan
Cartwright	Hancock, N. C.	O'Neal, Ky.	Vinson, Ga.
Casey, Mass.	Harter	Oliver	Wearin
Champion	Hennings	Patrick	Weaver
Colden	Hook	Randolph	White, Idaho
Cole, Md.	Jarman	Rankin	Wilcox
Crowther	Jenckes, Ind.	Sabath	Wood
Deen	Kelly, Ill.	Sadowski	Zimmerman
Dickstein	Kocialkowski	Schuetz	

The SPEAKER. Three hundred and fifty-four Members have answered to their names, a quorum.

Further proceedings under the call were dispensed with.

GOVERNMENT REORGANIZATION

Mr. COCHRAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 3331.

The SPEAKER. The question is on the motion of the gentleman from Missouri [Mr. COCHRAN].

Mr. RABAUT. Mr. Speaker, on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 207, nays 139, not voting 83, as follows:

[Roll No. 50]

YEAS—207

Aleshire	Evans	Kopplemann	Rayburn
Allen, Del.	Farley	Lambeth	Reilly
Amlie	Ferguson	Lanzetta	Richards
Anderson, Mo.	Fernandez	Larrabee	Robertson
Arnold	Fitzgerald	Lea	Robinson, Utah
Atkinson	Fitzpatrick	Lesinski	Rogers, Okla.
Barden	Flaherty	Lewis, Colo.	Romjue
Barry	Flannery	Ludlow	Sacks
Bernard	Fletcher	Luecke, Mich.	Sanders
Bloom	Forand	McAndrews	Satterfield
Boland, Pa.	Ford, Calif.	McCormack	Schaefer, Ill.
Boren	Ford, Miss.	McFarlane	Schulte
Boyer	Fuller	McGehee	Scott
Bradley	Fulmer	McGranery	Secrest
Brooks	Garrett	McGrath	Shanley
Brown	Gavagan	McMillan	Sheppard
Buck	Gildea	McReynolds	Sirovich
Bulwinkle	Gingery	Magnuson	Smith, Va.
Byrne	Goldsborough	Mahon, S. C.	Smith, Wash.
Cannon, Mo.	Gray, Ind.	Mahon, Tex.	Smith, W. Va.
Cannon, Wis.	Greenwood	Maloney	Snyder, Pa.
Casey, Mass.	Gregory	Mansfield	Somers, N. Y.
Celler	Griffith	Martin, Colo.	South
Chandler	Haines	Massingale	Sumners, Tex.
Citron	Hamilton	Mead	Sutphin
Clark, N. C.	Harlan	Merritt	Swope
Claypool	Harrington	Mills	Tarver
Cochran	Hart	Mitchell, Ill.	Taylor, Colo.
Collins	Havenner	Mouton	Taylor, S. C.
Colmer	Healey	Murdock, Utah	Terry
Connery	Hendricks	Nelson	Thom
Cooley	Hildebrandt	Nichols	Thomas, Tex.
Cooper	Hill	Norton	Thomason, Tex.
Cravens	Hobbs	O'Brien, Ill.	Thompson, Ill.
Creal	Honeyman	O'Brien, Mich.	Tolan
Crosser	Houston	O'Connell, Mont.	Transue
Crowe	Izac	O'Connell, R. I.	Turner
Cullen	Jacobsen	O'Day	Umstead
Cummings	Johnson, Luther A.	O'Malley	Vincent, B. M.
Curley	Johnson, Lyndon	O'Neill, N. J.	Vinson, Fred M.
Daly	Johnson, Okla.	O'Toole	Voorhis
Delaney	Johnson, W. Va.	Owen	Wallgren
DeMuth	Jones	Pace	Walter
DeRouen	Kee	Patman	Warren
Dies	Keller	Patterson	Wearin
Dingell	Kelly, N. Y.	Pearson	Wene
Disney	Kennedy, N. Y.	Peterson, Fla.	West
Dockweiler	Keogh	Peterson, Ga.	Whelchel
Dorsey	Kerr	Pierce	Whittington
Doxey	Kirwan	Poage	Williams
Dunn	Kitchens	Quinn	Woodrum
Eicher	Kniffin	Ramsay	

NAYS—139

Allen, Ill.	Culkin	Hoffman	Meeks
Allen, Pa.	Dempsey	Holmes	Michener
Andresen, Minn.	Dirksen	Hope	Moser, Pa.
Andrews	Ditter	Hull	Mosier, Ohio
Arends	Dondero	Hunter	Mott
Ashbrook	Dowell	Imhoff	O'Connor, N. Y.
Bacon	Drew, Pa.	Jarrett	Palmisano
Barton	Eaton	Johnson, Minn.	Parsons
Bates	Eberharter	Kennedy, Md.	Patton
Beiter	Edmiston	Kinzer	Pettengill
Bell	Elliott	Kleberg	Phillips
Bigelow	Engel	Knutson	Plumley
Boileau	Englebright	Kvale	Polk
Buckler, Minn.	Faddis	Lambertson	Rabaut
Burdick	Fleger	Lamneck	Ramspeck
Carlson	Fries, Ill.	Lanham	Reece, Tenn.
Carter	Gamble, N. Y.	Lemke	Reed, Ill.
Case, S. Dak.	Gambrill, Md.	Lord	Reed, N. Y.
Chapman	Gearhart	Luce	Rees, Kans.
Church	Gehrmann	Luckey, Nebr.	Rich
Clark, Idaho	Gifford	McClellan	Robsion, Ky.
Clason	Gray, Pa.	McGroarty	Rockefeller
Cluett	Griswold	McLaughlin	Rogers, Mass.
Coffee, Nebr.	Guyer	Maas	Rutherford
Cole, N. Y.	Gwynne	Mapes	Ryan
Costello	Halleck	Martin, Mass.	Sauthoff
Crawford	Hancock, N. Y.	Mason	Schneider, Wis.
Crowther	Hartley	May	Scrugham

Seger	Spence	Thurston	White, Ohio
Shafer, Mich.	Stack	Tinkham	Wigglesworth
Short	Starnes	Tobey	Withrow
Simpson	Stefan	Towey	Wolcott
Smith, Conn.	Sweeney	Treadway	Wolverton
Smith, Maine	Taber	Wadsworth	Woodruff
Snell	Thomas, N. J.	Welch	

NOT VOTING—83

Allen, La.	Dixon	Jenks, N. H.	Randolph
Beam	Doughton	Kelly, Ill.	Rankin
Biermann	Douglas	Kocialkowski	Rigney
Binderup	Drewry, Va.	Kramer	Sabath
Bland	Driver	Leavy	Sadowski
Boehne	Duncan	Lewis, Md.	Schuetz
Boykin	Eckert	Long	Shannon
Boylan, N. Y.	Fish	Lucas	Smith, Okla.
Brewster	Flannagan	McKeough	Sparkman
Buckley, N. Y.	Frey, Pa.	McLean	Steagall
Burch	Gasque	McSweeney	Sullivan
Caldwell	Gilchrist	Maverick	Taylor, Tenn.
Cartwright	Green	Mitchell, Tenn.	Teigan
Champion	Greever	Murdock, Ariz.	Vinson, Ga.
Coffee, Wash.	Hancock, N. C.	O'Connor, Mont.	Weaver
Colden	Harter	O'Leary	White, Idaho
Cole, Md.	Hennings	Oliver	Wilcox
Cox	Hook	O'Neal, Ky.	Wolfenden
Crosby	Jarman	Patrick	Wood
Deen	Jenckes, Ind.	Pfeifer	Zimmerman
Dickstein	Jenkins, Ohio	Powers	

So the motion was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Flannagan (for) with Mr. Gilchrist (against).
Mr. Gasque (for) with Mr. Douglas (against).
Mr. Vinson of Georgia (for) with Mr. Fish (against).
Mr. Duncan (for) with Mr. Brewster (against).
Mr. White of Idaho (for) with Mr. McLean (against).
Mr. Long (for) with Mr. Taylor of Tennessee (against).
Mr. Dickstein (for) with Mr. Oliver (against).
Mr. Hook (for) with Mr. Jenkins of Ohio (against).
Mr. Biermann (for) with Mr. Powers (against).
Mr. Weaver (for) with Mr. Wolfenden (against).
Mr. Boylan of New York (for) with Mr. Jenks of New Hampshire (against).
Mr. O'Leary (for) with Mr. Champion (against).

Until further notice:

Mr. Rankin with Mr. Tiegan.
Mr. Boehne with Mr. Deen.
Mr. Schuetz with Mr. Sparkman.
Mr. Bland with Mr. Rigney.
Mr. Hancock of North Carolina with Mr. Kelly of Illinois.
Mr. Burch with Mr. Colden.
Mr. Steagall with Mr. Wood.
Mr. Maverick with Mr. Pfeifer.
Mr. Drewry of Virginia with Mr. Kramer.
Mr. Doughton with Mr. Allen of Louisiana.
Mr. Sabath with Mr. Shannon.
Mr. Harter with Mr. Green.
Mr. Cox with Mr. Zimmerman.
Mr. Mitchell of Tennessee with Mr. O'Neal of Kentucky.
Mr. Boykin with Mr. McKeough.
Mr. Hennings with Mr. Sadowski.
Mr. Greever with Mr. Buckley of New York.
Mr. Crosby with Mr. Randolph.
Mr. Frey of Pennsylvania with Mr. Caldwell.
Mr. Sullivan with Mr. Eckert.
Mr. Patrick with Mrs. Jenckes of Indiana.
Mr. Beam with Mr. Lewis of Maryland.
Mr. Wilcox with Mr. Murdock of Arizona.
Mr. Leavy with Mr. Kocialkowski.
Mr. Driver with Mr. Coffee of Washington.
Mr. Jarman with Mr. McSweeney.
Mr. Smith of Oklahoma with Mr. Lixon.
Mr. Cole of Maryland with Mr. O'Connor of Montana.

The result of the vote was announced as above recorded.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3331) to provide for reorganizing agencies of the Government, extending the classified civil service, establishing a general auditing office and a department of welfare, and for other purposes, with Mr. McCORMACK in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Under the rules the gentleman from Massachusetts [Mr. GIFFORD] is recognized for 1 hour.

Mr. GIFFORD. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. REED].

Mr. REED of New York. Mr. Chairman, I deplore the fact that this important measure is being railroaded through this House. Not since I came here 20 years ago have I known of a time when 130,000,000 people were so aroused over any legislative proposal as they are over this attempt to vest the legislative power of a representative government in one man. I feel that the leaders on the majority side of the House should take notice of the sentiment of the people whom they have the honor to represent, and afford ample opportunity for each Representative to present the views of his constituents on this important matter. [Applause.]

Mr. Chairman, 1 year ago yesterday I had occasion to take the floor in opposition to the proposal to pack the Supreme Court. I then made this statement:

When the President sent his message to Congress asking power to appoint six more Supreme Court Justices, the people, including thousands who loyally supported him last year, were amazed, shocked, and grieved.

Amazed, shocked, and grieved as they were then, I venture the statement that they will be equally amazed, shocked, and grieved when they learn the full import of the President's plan to reorganize the administrative departments of the Government. The bill is now locked in the fastness of executive session and will not become public until the committee reports it out. The first reorganization bill sent down from the White House was incredible in its challenge to legislative authority. So incredible that it was soon withdrawn and a second bill, less obvious in its intent, substituted.

I see real danger to our democratic form of government in that one bill alone, but when that bill is coupled with the bill to enlarge the Supreme Court—and they should be coupled—then the danger becomes terrifyingly imminent.

It has been very properly said that "we do not want a dictator in this country, not even a good one." It is alarming, indeed, to contemplate vesting the enormous powers sought by these two reorganization bills in the hands of the President, where they will remain for the use of Presidents yet unknown.

The individual who plays a game in which his life, liberty, and property are the stakes, and his opponent deals the cards out of a stacked deck, need not expect to win.

It must not be overlooked by the membership of this House that whatever power may be vested in President Roosevelt by the enactment of the bills now under consideration such power, if and when granted, cannot be regained by the Congress by a majority vote. If the powers are delegated to the President as now proposed, and a time comes when prudence or the general welfare makes it advisable to recapture the surrendered legislative functions, what will be the procedure and the result? Assume that Congress passes a bill to regain that which it now plans to surrender and the President vetoes the bill, then what? Congress may then attempt to override the veto, which can be done only by a two-thirds vote. This means that the President can retain his power by controlling one-third of the membership of either the House or the Senate. The legislative record of this Congress for the past 5 years shows that the President has been able to control, with only a few exceptions, not only one-third but an overwhelming majority of the House and the Senate.

There is no use in losing sight of the influence which the President can exert over Congress through the use of patronage, promise of public projects, judicial appointments, aid to the faithful in congressional campaigns, the approval or disapproval of bills, and in many other ways. When Congress surrenders its legislative powers it is doing that which is not only unconstitutional but it is striking a blow at representative government by surrendering rights which properly belong to a sovereign people. The delegation by Congress of its legislative functions in this manner is unconstitutional, and such an act cannot be justified by the specious argument that it should be done in the name of efficiency and economy, neither of which can nor will be accomplished by the pending reorganization measures.

President Roosevelt has had 5 years during which, even under the present departmental arrangements, to practice economy, yet the record shows that he has done nothing within his existing Executive power to curtail waste, extravagance, and inefficiency. This ought to raise doubt in the minds of reasonable persons as to his real motive in asking for the powers embodied in the pending measures.

In deciding upon the course of action that should be taken by Congress, the fact that it is now proposed to exempt certain quasi-judicial agencies is of no consequence. I do not want to see the dangerous precedent established by this Congress of attempting either to violate the Constitution or to

surrender the fundamental rights of the people, now vested in their chosen representatives.

I desire to stress again the fact that any power surrendered can be regained only by a two-thirds vote in both branches of Congress. This is an attempt to change our form of government by vesting power in one man, which he can retain as long as he can control the votes of one-third of either branch of the National Legislature.

There is one thing of which this House may be certain—that whatever power is granted to the President, he will use; otherwise he would not ask for it.

The extent to which the President desires to dominate the Government is revealed in the original proposal of reorganization presented to the Joint Committee on Organization.

There were two drafts or legislative proposals to reorganize the Government presented by the Executive, but I shall refer to only the first one. I wish to call your attention to section 2. Under this provision the President could have abolished any Government department, independent establishment, or even legislative courts. The functions performed by such Government agencies could also be abolished.

Also note section 215 (b). Under this provision the President could exempt any policy-forming office from the civil service, and the appointments to such offices would not have to be confirmed by the Senate. The President's determination of what constitutes a policy-forming office would be final. In this provision practically all of the rest of the provisions of title II of the bill are contradicted.

Title V of the bill sets forth a number of definitions and contained a number of miscellaneous provisions. Section 501 (a), defining "agency," and section 501 (f), defining "functions," are especially of interest. Section 503 practically grants to the President unlimited power to shift appropriations from one establishment to another.

I am against these bills, even though modified to exempt some of the drastic and dangerous features of the first draft presented by the President.

The state of mind of the world today and the advantage taken of it by men ambitious to exercise absolute and tyrannical control over the people, even to the extent of destroying individual liberty, is a danger signal which we must heed.

In the President's press release of March 29 he says:

> Let me state to you categorically that if such a joint resolution were passed by the Congress disapproving an order, I would, in the overwhelming majority of cases, go along with carefully considered congressional action.

Further he said:

> I can think of no cases where the President would not gladly yield to a clear expression of congressional opinion.

Let us see if this is true. You remember that in 1934 we in this House, by more than a 2-to-1 vote, defeated the plan to build a furniture factory at Reedsville, W. Va. The Senate at first dissented from our position but later agreed with us, and the $525,000 which Secretary Ickes had given to General Farley for the erection of the factory was returned to the P. W. A. and the furniture factory was not built. In both the House and the Senate there was a clear expression of congressional opinion against the Government's going into the furniture business in subsistence homesteads. At that time we pointed out that this was the first of a series of some thirty factories that were planned by Professor Tugwell's Resettlement Administration. Nothing could be clearer than the speeches in the House and the Senate opposing the plan to put the Government in competition with business in these subsistence homesteads. It was "carefully considered congressional action." It was a "clear expression of congressional opinion."

Yet, what do we find taking place this very day? The Resettlement Administration has plans drawn and $400,000 set aside and available for the construction of a sawmill and dimension plant at Tygart Valley, W. Va. This is a direct entry by the Government into the lumber business and direct competition with the lumbermen. The hardwood lumber industry has, for a great many years, been facing a continued decrease in consumption. The potential demand both for domestic and export hardwood could not possibly keep busy the mills already erected.

If the President "can think of no cases where the President would not gladly yield to a clear expression of congressional opinion," I call this case to his attention.

Let us not forget either that it was the Comptroller General who stepped into the breach when Mr. Ickes allocated $525,000 to Mr. Farley for the furniture factory. The Comptroller, at my request, propounded this question to Mr. Ickes: "To report as to the authority of law under which the allotment is proposed to be made."

"In the meantime," the Comptroller General reported to me, "this office is withholding action on the warrant submitted for countersigning to effectuate the allotment of Public Works funds for the construction of the factory."

Bear in mind that the allocation of $525,000 was made before we had an opportunity to vote on the policy of the Government going into the furniture business. It was the Comptroller General who under the powers that the Congress vested in his office withheld approval of the allocation warrant.

Under the reorganization bill all power to disallow expenditures will be transferred to the Bureau of the Budget—which means the President.

In answer to the President's assurances, I have given you a concrete example to the contrary.

Mr. GIFFORD. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. PLUMLEY].

Mr. PLUMLEY. Mr. Chairman, in common with a good many, I recognize the fact that efficiency, if not economy, in government demands that there be a reorganization of governmental agencies.

However, while it may be true that in some respects the proposed reorganization measures are not as bad as painted, on the contrary, it is equally true that the vindictive and vicious features, the harm and damage deliberately proposed to be accomplished if the measure becomes a law, make it impossible for those who favor rational reorganization to support the present proposition at all.

LABOR SHOULD BE INTERESTED

I am opposed and most strenuously object to some of the proposed changes. In the first place, in my judgment the Civil Service Commission and the United States Employees' Compensation Commission should be retained as independent agencies.

I do not believe that Congress should further abrogate or surrender its prerogatives by delegating to the executive department such sweeping authority as is contemplated. I am convinced that Congress should reassert itself and its authority in conformity with democratic procedure and democratic government.

No Executive order, such as is contemplated may be issued by the President if the Senate bill should become the law, which undertakes to consolidate, abolish, or transfer any bureau or department should be permitted to become effective unless and until approved by a majority of both branches of Congress. It is time the people had a chance to assert themselves.

AGRICULTURE GRAVELY AFFECTED

In the second place, I am sure that the dairy farmers of this country, and of Vermont in particular, do not realize or appreciate the fact that under the provisions of the Senate bill every agency of the Federal Government dealing with agriculture may be shifted from their present locations in the Department of Agriculture and the Farm Credit Administration and placed under other governmental departments or boards whose executive officers and departmental heads may not be friendly to the interests of agriculture nor familiar with the problems of agriculture.

For many years the agricultural interests of the country have always opposed legislation which would permit any interference with the Department of Agriculture or other Government agricultural agencies except by congressional action.

Agriculture has persistently insisted that congressional action to change any of the agencies of the Government affecting agriculture presupposes—

First. A hearing by congressional committees, both Senate and House, at which all interested parties are permitted to testify.

Second. Committee reports giving the reasons for and against any proposed change, available to farm groups as well as to all members of the Senate and House before the measure is voted upon.

Third. The opportunity for record vote in both Senate and House so that the farmers of this country may be given the opportunity to know where their elected representatives stand on proposals affecting the operations of the Department of Agriculture and the Farm Credit Administration.

PRESERVATION OF BENEFITS

So I again assert that in order to preserve for the farmers of this country the benefits they are now receiving through the Department of Agriculture and the Farm Credit Administration and to prevent any change in the operations of these two governmental agencies without express congressional sanction, the proposed reorganization bill should be defeated.

A BLOW TO THE CAUSE OF REPRESENTATIVE DEMOCRACY

There can be no question that, as has already been so ably stated, the enactment of the Senate bill for the reorganization of Federal agencies in its present form would be a blow to the cause of popular government. It would vest the Executive with wholly unwarranted powers and would reduce Congress to the status of a mere spectator in the work of reorganization. It would mean the abandonment of the processes of representative government and would degrade the ideals of American democracy.

True, the provision for the creation of a department of conservation has been dropped from the Senate bill, but the measure as it now reads leaves the way open for the transfer of various agricultural agencies to the Department of the Interior. It is significant that Secretary Ickes publicly announced his gratification over the defeat of the attempt to amend the Senate bill so as to forestall the transfer of agricultural agencies to his Department.

Dropping this proposal from the bill is an idle gesture if the President be given full authority to regroup governmental activities without approval by Congress. Senator WHEELER was right when he insisted, but futilely so, that "before any Executive order for regrouping Federal agencies could become effective, it would have to be approved by both Houses of Congress."

It is common knowledge that the Grange and other farmers' organizations are back of the proposition to have the reorganization bill amended in such a manner as to prevent the transfer of the Forest Service, the Soil Conservation Service, the Biological Survey, and similar agencies from the Department of Agriculture to the Department of the Interior. Practically all the farm, conservation, and forestry organizations of the country are united in opposing the transfer of these agencies. Secretary of the Interior Ickes has for years been casting covetous eyes in this direction, and he has waged a persistent campaign to get control of the agencies named.

It will require a limitation of the power now given to the President by the Senate bill to accomplish the prevention of the transfers above suggested. Do not forget that.

AN INDEPENDENT PREAUDIT

In the third place—and this is a matter to which I have given a great deal of time and study—I feel strongly that Congress should retain its direct control of public funds and expenditures through the maintenance of an independent Comptroller General. The only way this can be assured is by the preaudit of accounts for expenditures of public funds, as at present, instead of a postaudit, and I am, therefore, unalterably opposed to the proposed changes involved in the plan to emasculate the office of the Comptroller General.

With respect to this proposed change I substantially repeat what I said on the floor of the House on March 22, 1937, when this very matter was under consideration.

The people, as well as Members of Congress, should not lose sight of the fact that the General Accounting Office was set up for the single purpose and with the single intent to do one thing, namely, to require law observance in the uses of appropriated moneys—to aid the Congress in this regard in discharging a constitutional responsibility to the people. It has accomplished that purpose, and in so doing has carried out the intent of Congress.

As someone has well said, the authority of the congressional branch to require law observance in the uses of appropriated moneys and in executive expenditures goes back to the days of William of Orange. William had been called from Holland to rule England when the English found it impossible to rule themselves. After he was safely in England a political sand boil spurted up behind the Dutch dikes. William asked the English Parliament for more money. Parliament suspected he wanted the money to cover the costs of his armies in Holland.

"What for?" asked Parliament.

"None of your business," said William. This may not be an absolutely verbatim report. "I'm the King, what? Send me the money and I will spend it the way I want to. I can do a far better job of spending than you can."

"Go, my fair liege," replied Parliament, in effect, "and jump in the lake."

The principle that the money-producing body shall say how the money shall be spent has been upheld in English and American jurisprudence ever since.

CONGRESS SHOULD ASSERT, NOT STULTIFY, ITSELF

At the bottom of all the criticisms of the act which established the office of Comptroller General, and the real, uncamouflaged reason underlying all other, given by those who would offer a new scheme or system, is the fact that the act worked as it was intended it should work, and exactly as Congress proposed to have it work. It accomplished those very things which it undertook to effectuate, therefore it should not be changed or amended for the purpose of emasculation or repeal.

That it has functioned as it was intended it should is the compelling reason for strengthening rather than weakening the provisions of the act; for its continuance, and for the position I have above taken. It should remain unmolested by those who would interfere with it, undisturbed by those who claim they have suffered interference by reason of it, and unassailed by others who have undoubtedly been inconvenienced.

Were the matter to be gone into on Congress' own volition and motion out of the experience of the years, there would of necessity come the conviction that the independent audit system should be strengthened, not weakened, emasculated, or crucified, as proposed.

Significant facts which should not be overlooked by Members of Congress are found in the language of the act creating a General Accounting Office, an office—

Which shall be independent of the executive departments and under control and direction of the Comptroller General of the United States.

In this act it is provided that, among other things, as the agent of Congress—

The Comptroller General or the Assistant Comptroller General may be removed at any time by joint resolution of Congress after notice and hearing when, in the judgment of Congress, the Comptroller General or Assistant Comptroller General has become permanently incapacitated or has been inefficient, or guilty of neglect of duty, or of malfeasance in office, or of any felony or conduct involving moral turpitude, and for no other cause and in no other manner except by impeachment * * *

(b) He shall make such investigations and reports as shall be ordered by either House of Congress or by any committee of either House having jurisdiction over revenue, appropriations, or expenditures. The Comptroller General shall also, at the request of any such committee, direct assistants from his office to furnish the committee such aid and information as it may request.

(c) The Comptroller General shall specially report to Congress every expenditure or contract made by any department or establishment in any year in violation of law.

(d) He shall submit to Congress reports upon the adequacy and effectiveness of the administrative examination of accounts and claims in the respective departments and establishments and upon the adequacy and effectiveness of departmental inspection of the offices and accounts of fiscal officers.

Why should Congress be asked to surrender not only the right but its duty to require law observance? It should not.

Congress should insist that the office of Comptroller General should be continued substantially pursuant to the terms and according to the provisions of the act by which it was created, strengthened, and circumscribed only with and by the limitations therein contained, be empowered to function effectively and independently as prescribed and made possible by the act.

CONGRESS MUST PROTECT ITS RIGHTS

Congress should protect itself. It should resent and show its unmistakable disapproval of every suggestion looking toward the surrender by it of any of its rights and prerogatives, and most emphatically should it decline to surrender its authority and duty to require law observance.

Now, let me say that if I am correctly advised, and the program contemplated is followed, the House bill as finally enacted and the Senate bill will go to conference. Such conference report as is filed may be taken up by unanimous consent, which will never be granted; or under a rule from the Rules Committee. So the proposed reorganization measure has a long, tortuous road to travel before, if, and when it arrives as the law. I doubt if, as it emerges eventually, its own friends will recognize it, but that is my opinion based upon the assumption that the American people will wake up and assert themselves and their rights to live in a representative democracy.

The American people are opposed to the bills and to the strategy invoked to "steam roll" them into a law.

The people are aroused by the two public statements recently made by the President. The reaction has not been what was hoped for, but it would appear exactly the opposite. Right or wrong, as evidenced by the hundreds of thousands of letters and telegrams received in Washington, the people are more convinced than ever that they are being played with as pawns. It is generally admitted by his best friends, and has been stated over and over again on and off the floor, that the President made a bad slip when he issued a statement immediately after the passage of the reorganization bill in the Senate in which he said that it had been proved that the Senate could not be "purchased" by telegrams allegedly misrepresenting the facts about the reorganization bill. It left the inference, quickly seized upon, that those Senators who voted against the bill had been purchased or influenced improperly. It was an effort to crack down on his opponents and to make the country believe they were attempting to "purchase" Senators.

Not even the best of Mr. Roosevelt's friends, however, condone this action of jubilation over the administration victory in the Senate by saying the victory proved that body not to be purchasable.

If he had referred to the Senate in more parliamentary terms by saying Senators could not be frightened, or intimidated, or stampeded by waves of inspired telegrams, there probably would have been no outburst in that body.

As it was, many of the Members who voted with Mr. Roosevelt felt the use of the word "purchase" was gratuitously offensive and invited all the criticism that has followed and that will be heard for many a day yet to come.

Next comes his "no dictator" letter in which he attempts to allay fears aroused by the very bill which he defends. Let us get that straight. The President favors the Senate bill. The House proposes to strike out all of that bill after the enacting clause and to substitute something else. The President's letter favoring the Senate bill is used as a weapon to force passage of the House substitute. What does it mean? Who is right—those who tell us the House bill protects the country and are using the President's letter favoring the Senate bill as a weapon, or those who tell us that all that is planned is to get the House bill to conference and to come back with the essential Senate bill? You may take your own choice and draw your own conclusions.

It has also been well said—and many times, by many men, in many ways, in the last 48 hours—that things have come to a strange pass in America when the President of the United States feels it is necessary to announce to the country that he has no desire to be a "dictator." It is all the more strange that the President should have been impelled to arouse the newspaper reporters in the middle of the night to place this announcement in their hands. Does the President believe that the people are reaching the conclusion that he has a desire to be a dictator?

The President's announcement was contained in a letter defending the reorganization bill, which has passed the Senate and is before the House. The Chief Executive declared that he had no "inclination" to be a dictator; that he had none of the qualifications which would make him a successful dictator; and that he had too much knowledge of existing dictatorships to make him desire such a form of government for America. This pronouncement of the President, unusual in character as it is, must be considered as another step in the fight for more centralized control of the Government in Washington.

Another thing which sticks out like a sore thumb and is to be considered is the fact that the President cannot forget the defeat of his attempt to reorganize the Supreme Court. Neither do, nor will, the Members of Congress forget it. An editorial writer on the Washington Post covered the situation pretty definitely when he said:

A single paragraph of the President's letter to an unidentified correspondent on the reorganization bill epitomizes his view:

"You know that when over a year ago I recommended a reorganization bill to the Congress all parties and all factions agreed on the need for such a measure. You know, too, that a year later a carefully manufactured partisan and political opposition to any reorganization had created a political issue—created it deliberately out of whole cloth."

Despite the President's assertion that the opposition to his bill is directed at any and all reorganization plans, there is still a strong demand in and out of Congress for an overhauling of the executive departments to enhance their efficiency. The question on which the present controversy centers is whether this task shall be entrusted to Mr. Roosevelt with only perfunctory checks upon his exercise of power. At the beginning of its 1937 session Congress would undoubtedly have granted him that power. Now, many legislators in both Houses are skeptical, if not definitely opposed.

Mr. Roosevelt frankly admits that a change has come over the country. And he makes a fighting effort to show that it is partisanship manufactured "out of whole cloth." A glance at the line-up in the Senate is sufficient to show the fallacy of that statement. What possible reason could such Senators as WAGNER, WALSH, GLASS, MILLER, KING, GEORGE, CONNALLY, CLARK, BURKE, BONE, TYDINGS, and WHEELER have in trying to discredit the administration most of them helped to elect?

During the year in which the country changed its mind about the reorganization bill, it experienced one of the most soul-searching controversies in its history. In the President's letter he blandly ignores the public outcry which prevented him from packing the Supreme Court. But do not overlook the fact that today that fight is uppermost in the mind of virtually every Member of Congress and every citizen who is opposing the proposed grant of reorganization powers.

To the President that historic struggle to preserve the independence of the judiciary may be just a bogy planted under the bed by politicians. But millions of citizens whose concern is the future of democracy cannot regard it so lightly. In that fight the President manifested a positive

contempt for our system of constitutional government with divided powers. He put a coordinate branch of the Government in jeopardy to gain his ends. And the whole scheme was cloaked in the deceptive language of "judicial reform." [Applause.]

If the ghost of the Court bill now rises to plague the administration it can scarcely be said that skeptical legislators are yielding to pressure or playing politics. The President himself has thrown a long shadow over every proposal seeking to extend his authority. His regard for constitutional government is under a suspicion that mere words will not remove. Until these fears can be overcome by an impressive record of government by law and not by impulse, every attempt to expand the President's powers will meet with stubborn and nonpartisan resistance.

Mr. GIFFORD. Mr. Chairman, I yield 3 minutes to the gentleman from New Hampshire [Mr. TOBEY].

Mr. TOBEY. Mr. Chairman, I speak this morning for interests that transcend those of party, namely, the interests of American citizenship, regardless of party, race, or creed.

I oppose the legislation before us.

In 1921 the General Accounting Office and office of Comptroller General were established, and the House voted 344 to 9 in favor thereof. The clear purpose of Congress as brought out in the debate was that the Comptroller General should be responsible only to Congress and should see that all appropriations were disbursed strictly in accordance with the law.

The gentleman from Alabama, now the distinguished Speaker of this House, at that time said—and I quote:

> It is a safe provision to allow this man who is to perform the great duties of Comptroller General to be absolutely free and independent of any restraint by Executive interference. If he is to carry out the will of Congress as proposed in this House bill and protect the Treasury and the interest of the taxpayers, he should be free and untrammeled from any sort of interference from any source.

That was well said, but the independence which that law gave the Comptroller General disappears under the proposed bill, and should it become law we shall have forged another link in a chain of legislation setting up in effect in these United States a totalitarian state.

Under this proposed bill the Comptroller General would carry on the duties of his office with a sword of Damocles hanging over him, which might fall at any moment, dependent on the will or caprice of the Executive.

No one questions the need of reorganization and the regrouping of some of our Government departments and subdivisions. The cause of efficiency could well be served by a wise application of such; but, whatever changes be proposed, there should be written in this bill now before us a provision that the same shall not become effective unless and until they receive the approval of Congress.

The power to effect such changes is our prerogative today, and I for one will never vote to strike it down and grant it to the executive branch.

The press reports that after the passage of the reorganization bill in the Senate the President decried the pressure efforts which he alleged had been used on the Senate by opponents of the bill.

There is an element of grim humor in this statement. For the last 5 years I have been a Member of this House. I have been a part of Congress as it acted on the various measures the President sponsored. Often they were known as "must" bills—that is, must pass. So the fiat went forth.

Well, some did and some did not. More passed a few years ago than in the past 2 years, and the diminution constitutes a cause for rejoicing by all Americans, regardless of party.

But when the President decries pressure and influence from those honestly afraid of the effect of such legislation he ought to apply introspection and recall the many times the White House and his department heads have put pressure on Members of Congress in ill-advised attempts to impose the will of the President on the free judgment and conviction of Members.

One does not have to hark back long to recall instances of the use of threats, promises, and cajoling, whichever treatment seemed most potent, and all motivated by a lust for power that bodes ill for our American form of government.

The powers asked for by the administration in this bill are a close second to the untimely and unsuccessful attempt a year ago to empower the Executive to pack the Supreme Court. Throughout the length and breadth of our land there then arose a spirit of righteous indignation which manifested itself in no uncertain tones. The same just indignation is abroad in our land today with respect to this bill and the powers asked for therein.

With respect to the civil-service provisions of this bill, there is much more to civil service than placing men and women on Government jobs beyond the pale of patronage. Civil service at its best should insure to those under it a sense of security in their jobs and tend to establish them in a career service.

I oppose doing away with the present bipartisan Civil Service Board and substituting a single head. I am not convinced of the sincerity of purpose behind this proposal. There never has been an administration that was more devoted to civil service than the present one, but the devotion has been shown chiefly in lip service.

In confirmation of this let me point out that since 1933 measure after measure of major legislation, while being shaped in Congress, had stricken therefrom the requirement that all jobs thereunder should be through civil service.

I well recall the time in 1933, when our committee was shaping the original A. A. A. bill, when the White House telephoned and asked to have the civil-service requirement stricken from that important legislation.

Equally well do I recall the time when the Home Owners' Loan Corporation legislation was before us when in the Senate the senior Senator from Nebraska [Mr. NORRIS], and in the House the gentleman from Massachusetts [Mr. LUCE] both took the floor and in speeches devoid of partisanship urged the retention of civil service in that legislation, but both were defeated. Many more instances could be cited.

Now it is proposed to do away with the present bipartisan Commission and substitute a single head, but adding an advisory board. I am opposed to these changes. As I have said before, this bill, if it becomes law, will affect the lives and welfare of over three-quarters of a million of our people now employed by the Government; and yet it is before us without those who will be affected by it having had the privilege or opportunity of public hearings with full and free discussion.

One thing I am confident of, and that is that few Members can visualize the consequences that the proposed changes would have on the lives and fortunes of over 750,000 men and women, now employees of the Government, and their families.

Let me here quote the opinion of Charles Stengle, president of the American Federation of Government Employees, who has this to say about it:

> I have made a study of this measure, with the result that I am convinced that it holds grave dangers to Government personnel. It is not an exaggeration to say that this bill would virtually wipe out the merit system, contribute nothing to the career service, and constitute a spoils system more obnoxious than that which prevailed prior to our civil service.

I again affirm to you that I voice my opposition to the bill in no partisan spirit and join with such nonpartisan and representative groups as the American Federation of Labor, the American Legion, the National Grange, the National Dairymen's Association, and others in their stand against the bill.

Mr. Chairman, the nerves of the people of this Nation are on edge. In many hearts is the question, "Quo vadis?"—"Whither are we going?"

Today unemployment is at a new peak. Careful estimates reveal that it is rising to 12,000,000. In my own State of New Hampshire, as of January of this year, the relief load was at a record high of 43,000 cases, exclusive of W. P. A., N. Y. A., and C. C. C. Concurrent with this we have a record national debt of about forty billions. Business

is depressed; prices of equities and bonds are sinking daily to dangerously low levels. These declines are impairing collateral loans. Our stabilization fund is involved in the French debacle. The grim specter of repudiation of debts looms on the financial horizon.

I hold it to be no overstatement to say that it is as serious an hour in the Nation as any in which you and I have lived; and yet here in Congress, instead of putting first things first and meeting the challenge of the emergency, we spend days and weeks tinkering up a piece of legislation which is not essential nor even helpful to recovery, but which in the last analysis is only a part of the same motif apparent in previous attempts of the Executive to accrue to himself greater powers—powers which under the Constitution belong to the Congress.

In anticipation of our consideration of this legislation today and the widespread charges of the fears of dictatorship, the President in the wee small hours of yesterday morning called the press in and stated that he has no inclination to be a dictator; that his background is against it, and so forth. That is his statement, in effect; but it is axiomatic that actions speak louder than words.

He can disclaim until doomsday; but if, as is true in this legislation now before us and in many other measures in recent years, we find a common thread running throughout, a common purpose to arrogate to the Executive powers not given to him under the Constitution, but which belong to the legislative branch, then the apprehensions and fears of countless Americans are justified. Whether you call it dictatorship or any other name, the effect is the same, and the potentialities are there.

There is something immensely more important than our respective party politics or your or my political future, and that is the responsibility imposed upon us as Members of the Congress to preserve the entity of the allocation of powers granted us under the Constitution.

Let the President carry on within the limits of powers granted him in that great document, the sesquicentennial of which we observe this year, but let the Congress accept and insist on retaining the powers granted it thereunder.

So shall we make effective our oath to preserve, protect, and defend the Constitution of the United States. [Applause.]

Mr. GIFFORD. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. MASON].

Mr. MASON. Mr. Chairman, on January 28 I spoke on the floor of this House on the subject of civil service. At that time I pointed out what the effect would be of the reorganization bill upon the civil service. I wish at this time simply to summarize what I said then.

Mr. Chairman, the records of the Civil Service Commission show that from the time Federal civil service was begun in 1884 up until the year 1933 the percent of Government employees in civil service rose gradually and steadily from 10.5 percent in 1884 to 82.9 percent in 1933. The same source also shows that under the present administration and under the spoils system of Mr. Farley the percentage of civil-service employees of the Federal Government has dropped during the last 5 years under the New Deal from 82.9 percent to 63.2 percent. These facts and figures do not bear out Mr. Roosevelt's oft-repeated statement that he proposes to extend the merit system "upward, outward, and downward." Actions speak louder than words.

ROOSEVELT'S REORGANIZATION PLAN

Mr. Chairman, there is now pending before the Congress a measure sponsored by President Roosevelt, which, if approved by the national legislative body, will be the greatest single step toward the ultimate and absolute destruction of the civil service that has been taken since the merit system was first introduced into our American Government. That measure is the President's Government reorganization bill. The President and his advisors in that bill propose the abolition of the Civil Service Commission.

In the place of the Civil Service Commission, a single civil-service administrator would be set up, to be appointed by the President, by and with the advice and consent of the Senate, but with this highly dangerous provision—that this administrator would be removable by the President at will. Under that arrangement the civil-service administrator would not dare do anything displeasing to the President, since by so doing he would court dismissal at the hands of the Chief Executive. No other conclusion can be drawn from this proposed measure except the one that Mr. Roosevelt desires to extend his personal power and control over the merit system of government. Certainly this proposed act would accomplish exactly that result. A civil-service administrator removable at will by the President would be merely a tool to do the President's bidding.

INDICTMENT BY NATIONAL CIVIL SERVICE REFORM LEAGUE

The National Civil Service Reform League, in its proceedings during the fifty-fourth annual meeting in 1936, very frankly declared that—

> Although the President has often assured the league of his devotion to the merit system, such assurances have not been fortified by insistence that constructive measures affecting the civil service be immediately enacted. Nor has he taken public notice of Cabinet defiance of its principles. We fear, also, that the failure of the President to take executive action against demonstrated instances of partisan mismanagement of important branches of the service, or assessments of public employees for campaign contributions, must lead inevitably to the belief that he acquiesces in the actions of the Postmaster General and other members of the administration similarly bent toward the patronage system.

In the phrase "acquiesces in the action of the Postmaster General" is to be found the real cause of our present civil-service mess.

Mr. ROBSION of Kentucky on last January 28 summarized the record of the New Deal on the subject of civil service wonderfully well. I close with his statement:

> No administration since the days of Andrew Jackson has done so much to break down the merit system and civil service and to resurrect the spoils system as the present administration.

Mr. GIFFORD. Mr. Chairman, I yield 4 minutes to the gentleman from Kansas [Mr. REES].

Mr. REES of Kansas. Mr. Chairman, the question before us this afternoon is one of the most important measures that has been considered by the present Congress. It transcends all party lines. This bill is entitled to a full and complete discussion.

Before I talk about the bill I want to call attention to the fact that the term "dictatorship" has been used frequently on this floor lately. We have a pretty good example of it this afternoon. When Members of Congress are limited to speeches of 2, 3, 4, or 5 minutes and are fortunate even if they get to talk that long—if that is no dictatorship on the part of the committee handling this bill I would like to know what it is. The least that the committee in charge of the bill could do is to give the membership of the House reasonable opportunity to debate the question.

We have an amended bill before us this afternoon, but do not forget that when we are through with it this bill will go to conference, and when we vote on a conference report we will vote on the Senate bill. So it may as well be conceded that we are discussing the Senate bill this afternoon.

It is, I say, unfortunate that administration leaders are insisting upon the speedy consideration and passage of this bill. If it is a good measure it will stand the scrutiny and examination of this House. It will withstand the criticism of the people throughout the country who are interested in this legislation. If it is good legislation it will gain strength. If it is bad legislation it will weaken.

The question of reorganization of the departments of Government has been before this Congress for a number of years. It is undisputed that there is need for overhauling and reorganization within many of our executive departments. It should be done in the interests of economy and efficiency. We have just been told there are 130 different

agencies within the executive department, and more than 50 of them have been added within the last 5 years. Thousands of employees have been added to their pay rolls.

I am sure an investigation will disclose that many of these bureaus are unnecessary. Millions of dollars would be saved if our Government were operated on a business-like basis. Members of this House have told us how inefficiently these various departments are operated. Then tell me why it is that men who are paid high salaries and are supposed to be qualified for their jobs and who are entrusted with the charge of these departments do not see that they are operated in the interests of efficiency and economy for the people of this country?

The real dispute this afternoon is concerning the method that is being used in this so-called reorganization plan, as provided under the present bill. One of the most important questions is whether or not this Congress wants to preserve, as far as possible, each and every element that goes to protect our democratic and constitutional form of government. We are interested this afternoon in the question as to whether or not our Government will function better if this Congress further surrenders certain of its rights and responsibilities to the executive department of this Government.

I have only a few minutes. I shall have to speak briefly. I would like to direct your attention to two particular features of the bill.

The first is with reference to title IV, that deals with the civil-service administration, and provides that we place the authority of the civil-service administration in the hands of one individual, with certain board members acting in an advisory capacity.

This title, if it is to be considered at all, should come on the floor in a separate measure—after it has had proper hearings and consideration by the Civil Service Committee, which has been created for that purpose.

Then let me call your further attention to the fact that even if this section becomes a law—that, within itself, will not improve the spoils system. This administration and Congress has seen fit over and over again to exempt groups of Federal employees from civil service and permit them to secure their positions under the spoils and patronage system. Since 1933, we have increased the number of political employees from 110,000 to 350,000. They do not come under civil service. We are increasing that number every day. In the last 5 years the percentage of civil-service coverage has lapsed from 80 percent to 60 percent. This Seventy-fifth Congress has made wholesale exemptions for permanent as well as temporary agencies. This administration and this Congress has taken an attitude of ignoring our civil-service system.

Just yesterday, a bill was introduced in this House to set aside the Executive order concerning the appointment of certain postmasters, and says in substance that not the highest of the three who takes the examination for postmaster, but "one of the three highest" may be chosen.

If this Congress wants to make a consistent effort to correct and improve our present civil-service system, it can do so by enacting a civil-service law whereby more than 300,000 Federal employees operating under the patronage system may acquire their positions upon their qualifications and not because of patronage.

This bill abolishes the office of Comptroller General, which, right now, is one of the most important offices in our Government. It was established under the Budget Act of 1921. This act definitely made the Comptroller General responsible for making sure the appropriations of Congress are spent in accordance with its intent. The Comptroller General is authorized to prevent expenditures that are contrary to the intent of Congress. There has been very little complaint concerning the operation of this office. It seems to me that this is a very poor time for Congress to let go of the one agency under its control where it still has a small hold on the purse strings of the Government. This title creates the office of auditor general, with no more authority than that of a bookkeeper. He is appointed for 15 years by the President.

With the ever-increasing Government expenditures, amounting this year, we are advised, to approximately $8,000,000,000, it is time for Congress to provide for a more adequate supervision over its expenses. This is not the time to release any of its power or authority over them.

This bill gives the President sweeping authority not only to reorganize and change but to eliminate any of the executive departments of our Government, except those which are specifically exempted by this bill.

One thing more: The proponents of this bill have not thus far advocated that the Government will make a saving of its expenditures by reason of this bill.

I am in favor of a method which would provide for more efficiency and economy in the various departments of government. Why not have Congress use its powers and authority and make such adjustments that will render our executive departments more efficient and more economical?

This bill does not strengthen our civil-service system. It places sweeping power and authority in the hands of the President, when such a thing is not necessary.

Before I close I should like to answer a statement that has been made by some of the proponents of this measure. They say that certain propaganda has been used in an attempt to defeat it. I have received numerous letters and telegrams from individuals who are seriously opposed to the bill. I do not believe they are "propagandists" as the term is ordinarily used.

I do not believe such organizations as the American Federation of Labor, National Cooperative Milk Producers, National Cooperative Council, representing 1,600,000 members; the National Grange, with its thousands of members; or the American Legion or Sons of the American Revolution should be classified as such.

In my judgment, this legislation is a luxury and not economy. It is uncalled for. It is unnecessary and is not for the best interests of our people. This House should lay this bill aside and give its attention to the important problems that are now before it affecting the businessman, the farmer, and the unemployed, together with other questions involving the interests and general welfare of our people in a crucial period.

Mr. GIFFORD. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Chairman, I question the desirability of Government reorganization in the manner prescribed by this measure. Differences of opinion may well develop over proposed methods.

I am definitely opposed to this proposal to have Congress abrogate its functions and transfer complete authority over this matter to the President. The time has come when we must cease this ever-increasing concentration of power in the Executive.

I had thought that this was stopped with the defeat of the President's Supreme Court proposal, but it now rears its ugly head once more.

In many respects the same issues are involved in this measure as were involved in the Court-packing measure. It is a question of whether we are going to preserve the independence of the three coordinate branches of the Government under the Constitution. The bill not only gives the Executive a tremendous power, but it involves an abrogation on the part of Congress of its control over strictly legislative policy.

The establishment and regulation of the various executive agencies of the Government is clearly the sole responsibility of Congress. It is the function of the President merely to see that the laws passed by Congress are faithfully executed. The Constitution gives him no legislative powers.

This bill is an acknowledgment by Congress that it is either unwilling or unable to perform its constitutional duties. If we are going to transfer all our legislative powers to the Executive, as we have heretofore over money, banks, the

tariff, and so on, there will not be any excuse for our continued existence as a legislative body.

The hundred-odd agencies over which the President is given control by this bill were all established by Congress, except the emergency agencies set up by the Executive under general powers delegated to him. Congress alone has the power to create these agencies and Congress alone has the power to reorganize, consolidate, or abolish them.

For a long time the people of this country have failed to realize the implications of this bill. At present, however, they are becoming aroused.

If the debate in the other body had been allowed to go on for a few more days, I feel certain that the rising tide of public protest against the enactment of the bill would have caused its defeat.

The purpose of the administration is to rush the bill through the House before the public can make its will known to the Members of this body.

Why all the haste, except for this reason? There is no emergency confronting the country in regard to reorganization. Other subjects, such as unemployment, encouragement to business, and so on, are vastly more important.

While two of the provisions of the pending bill have previously been considered by the House, the other two have not. The matter of Government reorganization is an important question, and it should not be rushed through without adequate consideration.

I know it is said that Congress retains control over the President's actions by the provision allowing rejection of the President's reorganization plan within 60 days. But this simply means that one-third of the membership of either body can prevent the Congress from interfering with the President's reorganization proposals. A resolution of disapproval would have to be passed over a certain Presidential veto, which would require a two-thirds majority. It would, of course, be an easy matter for the administration to muster the support of one-third of either branch to prevent such action.

The President has been quoted as saying that the vote in the other branch shows that the other body "cannot be purchased by organized telegrams." This was a very unfortunate statement for the President to make. It has been justly condemned by those on whom it reflects, who voted their convictions in opposition to the bill.

Significantly, the President failed to mention the pressure which his lieutenants have brought to bear to bring Members "into line" in support of his program. The only insidious propaganda or lobbying, apparently, is that which is carried on in opposition to the President's program. Nothing done to secure support for administration measures, on the other hand, seems to constitute lobbying or purchasing of support.

I want to say here and now that the letters and telegrams I have received in opposition to this measure have come from responsible citizens in my district who are expressing their honest convictions. They do not constitute organized propaganda. Certainly these people have a right to express their views on legislative matters. We still have freedom of speech and the right of petition in this country, although of course, these rights have been taken away in some foreign countries. Personally, I welcome at all times an expression of the views of my constituents on legislative matters.

In this connection I want to quote briefly from an editorial which recently appeared in one of the newspapers in my district, the North Adams Transcript. Discussing the question asked by the chairman of the Senate Lobby Committee as to who is paying for the so-called propaganda against the President's reorganization plan, the editorial states:

> Specific answer is impossible, because it would involve the listing of thousands of individual names, the names of the American citizens who, because they are genuinely alarmed not only by the far-reaching grant of power which this bill would make to the President, but by the use Mr. Roosevelt might make of it, have exercised their rights as American citizens to express in letters and telegrams, paid for out of their own pockets, the opinions which Senator MINTON calls propaganda.

Further on the editorial continues:

> Who is paying for the pressure on the other side—the pressure which is so strong that, despite the avalanche of spontaneous and voluntary protests against this bill from thousands of American citizens, it still seems likely to be enacted?
>
> The answer to that question is simple. There is no need to list any individual names. It is a complete answer to say that everyone is paying.
>
> All of us are paying in the taxes we contribute for the support of the Federal jobs which are being promised as patronage to the Congressmen who support President Roosevelt in his effort to make himself a more powerful boss.
>
> All of us are paying in the taxes we contribute for the payment of the senatorial salaries which Mr. Roosevelt promises to continue another term for the Members who support his bill by giving them his support in their campaigns for reelection. * * *
>
> In a word, everyone in America is contributing, but in this case involuntarily, to the price of a campaign which, to the extent that it succeeds, will compromise the principles of government under which everyone in America, through his elected representative, is supposed to have a voice in his Government.

Mr. Chairman, the action of the House upon the important question before us should not be decided by the amount of propaganda or pressure on one side or the other. The bill should be considered solely on its merits or demerits.

I have already referred to the granting of discretionary authority to the President in reorganizing, consolidating, and abolishing executive agencies. I would now like to refer briefly to other provisions of the bill.

The abolition of the Civil Service Commission and the substitution of a single administrator is to be strongly condemned. With the administrator responsible solely to the President, it means that the civil service will become a part of the Farley spoils system. It is definitely a backward step in civil-service reform and can only result in a break-down of the merit system. The present bipartisan Commission should be preserved.

Now, as to the Comptroller General's office, which was set up by Congress in 1921 to see that the public money was spent exactly in the manner authorized by Congress. While the House bill does not provide for the abolition of the office, as does the Senate bill, it nevertheless does away with the real value of the position. The Comptroller is shorn of his present powers and instead of being independent of Presidential influence, as he is at present, he is to hold office only during the pleasure of the President. This in itself completely destroys his value in carrying out the will of Congress. The Comptroller General's office is a quasi-legislative agency and should remain under the control of Congress.

Both the House and Senate bills set up a new department of public welfare, with a Cabinet member in charge, which will without a doubt become the greatest spending agency of the Government. It will have charge of all functions relating to relief, old-age assistance, vocational rehabilitation, public health, education, and so on. How great the powers of this proposed department may become in future years no one can foretell. It has been estimated that it will have control over the spending of nearly four billions annually.

The inclusion of the bureau of education in this department perhaps portends greater Federal control over education. I know that many groups in this country greatly deplore this tendency.

Another bad feature of the bill is the creation of six high-salaried administrative assistants to the President, who in effect will be assistant Presidents. They will receive a salary of $10,000 each, and, of course, will be political appointees. They would act as buffers between the President and the executive agencies. No doubt a large part of their time would be spent here in the legislative halls lobbying for administration measures and "putting the heat" on recalcitrant Members.

Mr. Chairman, in conclusion, let me say that the decision which the House makes in regard to the pending measure is of tremendous importance. It is a decision which involves far-reaching consequences. I hope and trust that the Mem-

bers of this body will defeat this unfortunate measure. [Applause.]

Mr. GIFFORD. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. MOTT].

Mr. MOTT. Mr. Chairman, when the reorganization bill (S. 3331) passed the Senate last Monday by a majority of 7 votes, the President of the United States publicly impugned the honesty and integrity of the 42 Senators who voted against the bill by declaring that the vote had proven that the Senate could not be purchased by a flood of telegrams, which he branded as deliberately misleading.

The telegrams he referred to were the thousands of messages which had come from people in all walks of life telling their Senators of their disapproval of the reorganization bill and asking them to defeat it.

The Senators to whom the President referred when he said the Senate could not be bought by such telegrams were, of course, only those Senators who voted for the bill. He was not including those Senators who voted against the bill. He was excluding them and, thereby and by direct inference, accusing them of having been bribed by the people through these telegrams.

If the bill should pass the House, I presume the President, in order to be consistent and impartial, will pronounce a similar verdict upon those of us who are opposing it in this body.

Mr. Chairman, I am opposed to this so-called reorganization bill which passed the Senate and which, with some slight modification is now before us for consideration. I am very vigorously opposed to it, but in the zeal of my opposition to this bill, I shall not follow the example of the President and call into question the honesty, the integrity, or the motives of my colleagues who are supporting it. I would not be permitted to do that even if I wanted to. For me to use on the floor of this House the language the President has used would be unparliamentary and in violation of the rules of the House.

But, Mr. Chairman, without violating any of the rules of the House, I want to give it as my solemn and considered conviction—and I say this after the most careful study—that no one who really understands and who believes in the American theory and system of government can read this bill without knowing that through its enactment the Congress will have surrendered to the Chief Executive every vestige of jurisdiction which it now holds over the independent agencies of the Government.

These agencies, the control of which this misnamed and misleading bill proposes to give to the President, never were executive agencies. They were created by the Congress for the sole purpose of enabling the Congress to effectuate its own laws. All of them are either quasi judicial in character or else they are direct agencies of the Congress itself. This bill proposes to make them purely executive agencies to be operated by agents of the President and in accordance with the will and policies of the President and not of the Congress.

The worst possible mistake the House can make in the consideration of this bill is to entertain for one moment the idea that the purpose of it is merely reorganization. That is not its purpose. That is a mere incident. Its purpose is the wholesale transfer of jurisdiction from the Capitol to the White House over every agency included in the bill, from the General Accounting Office to the Veterans' Bureau and the civil service.

Nor should gentlemen be confused or misled by the argument of those supporting the bill S. 3331, that the amended version of it which has been reported to the House from the special committee, and which we are now debating, is different from the bill as it passed the Senate, and that it is, therefore, any less objectionable.

They have argued, for example, that the House committee amendments give the President less authority than the Senate bill gives him to tamper with the Comptroller General, who is the head of the General Accounting Office, which, in turn, is the agency through which Congress now keeps control of the purse strings and through which it is able to prevent in advance any expenditure of money by the Executive for purposes other than that for which Congress appropriated the money. They say this because the bill as passed by the Senate abolishes the General Accounting Office altogether while the House amendment at least pretends to retain that office.

But the fact is there is no difference between the Senate bill, which abolishes the office, and the House amendment which retains it, because in retaining this office the House amendment destroys the independence of that office. The House amendment retains it, with limited authority, but makes it an agency of the Chief Executive instead of an agency of the Congress by giving the President the right to hire and fire Comptrollers General at will.

That is what the House amendment amounts to, and all of the language of the bill concerning the new office of auditor general, who audits expenditures not before but after they are made, amounts to nothing more than words and window dressing. So far as enabling Congress to keep control of the purse strings is concerned, the auditor general is worthless.

The Comptroller General under existing law is responsible to the Congress alone. The General Accounting Office is the agent of the Congress, and is utterly divorced from Presidential influence or interference. When Congress created this office, in order to make doubly sure that it should remain absolutely and forever independent, it provided that the Comptroller General should be appointed for a term of 15 years, that he should not be eligible for reappointment, and that during his term of office he could not be removed by the President under any circumstances whatever, and not even by the Congress itself except by a procedure almost equivalent to impeachment.

But what does this bill do? The Senate bill, as I have said, destroys the office by abolishing it. Under the House amendment the office is just as effectively destroyed by providing that the Comptroller General shall be appointed by the President without term and that he shall be removable at any time by the President with or without cause.

And now comes the joker in this particular part of the reorganization bill. Title IV of the bill sets up a new official, called an auditor general, at a salary of $10,000 a year, who is nothing more than a glorified bookkeeper and who has no authority whatever to prevent unlawful expenditures of the taxpayers' money. The bill then proceeds to make the Congress a present of this new individual and it very solemnly declares that he may hold office for 15 years and may not be removed except for cause.

What a farce! In my opinion, Mr. Chairman, it would be better to abolish the office of Comptroller General altogether as the Senate bill does, than to make the tenure of his office dependent upon the will or the whim of the Chief Executive, and then to add insult to injury by establishing this office of an auditor general, without any power to protect the Congress, and giving him an unremovable 15-year term of office upon the pretext that he is an agent of the Congress.

I have taken the General Accounting Office merely as a typical example of the betterments which its sponsors claim the House version makes over the Senate version of the reorganization bill. The difference is in form only. The real viciousness of the Senate bill is that it transfers jurisdiction over the several agencies, of which the General Accounting Office is but one, from the Congress to the Chief Executive. That is the fundamental objection to it, and that objection is not removed in any part of this so-called House bill.

Likewise the claim of those who are supporting this bill that the House amendments omit some of the agencies included in the Senate bill is, in my opinion, immaterial to the fundamental issue here involved. The issue is whether Congress shall retain jurisdiction or whether that jurisdiction shall be transferred to the President. The fact that

the House bill involves some agencies not named in the Senate bill, and that the Senate bill includes some agencies not covered in the House bill, is beside the point.

Mr. Chairman, I do not concur in this view. In my opinion the question of possible or even probable dictatorship is definitely involved in the consideration of the bill now before us.

Now, sir, before proceeding further let me make myself perfectly clear upon this point. By dictatorship I do not mean the kind that obtains in Italy or Germany or Russia. I do not mean a dictatorship which includes the concentration camp, the firing squad, and the chopping block. That would be ridiculous. No one fears that kind of dictatorship in America. But everybody knows it is not necessary to have that kind of dictatorship in America in order to establish effective one-man government. And it is in the sense of one-man government, a government in which all effective authority and responsibility is held by one branch of the government instead of being distributed amongst three branches, as the Constitution requires—it is in that sense that I use the term "dictatorship," and it is in that sense that the people of the country use it. The people fear, and they have cause to fear, that the enactment of this bill may be the last step on the road toward a system of government which is alien to the fundamental principles of constitutional representative government and which is violative of the plain provisions of the Constitution prescribing what the form and theory and the system of our Government shall be.

Reminding you again, Mr. Chairman, of the sense in which I use the term "dictatorship," I say that that question is involved in the consideration of this bill when hundreds of thousands of people throughout the country within the last few days have sent messages to their Representatives in Congress, messages expressing their fears and their convictions that enactment of this bill will lead to dictatorship, and urging their Representatives in Congress to defeat it.

Are all these people wrong? Are all their Representatives in Congress who hold the same opinion wrong? Can it be that only the President and his partisans here are right? By what authority and upon what ground do the sponsors of this bill laugh at the fears of the people and deride their opinions?

I say that the question of dictatorship is involved in consideration of this bill when practically the entire press of the country has denounced it and has declared its conviction that enactment of this bill will be another step away from responsible, representative government. Can all the editors of these newspapers be wrong, including those who heretofore have upheld the President in nearly all of his acts? In the face of this overwhelming opinion of the press upon this question by what warrant do the sponsors of this bill say that the question of dictatorship has no place in this debate?

I say further, Mr. Chairman, that the question of dictatorship is involved here when the President of the United States finds it necessary in the middle of the night to arouse sleeping newspaper correspondents in order to give them a copy of a letter which the President wrote to an unnamed friend declaring that he had no inclination to be dictator and that the establishment of a dictatorship was not the purpose of this bill.

When, in the whole history of this country, has a legislative proposal, made not by Congress but by the President, been of such a character as to make it necessary for a President to say that he was not seeking that legislation for the purpose of setting up a dictatorship? When has it been necessary for a President to allay the fears of the people that he might change the form of their government through enactment of a law and without amending the Constitution? If all of these things do not make it plain that the question of dictatorship is involved in this bill, and that it has a place in debate upon the bill, then there is no such thing as logic or germaneness in debate.

Mr. Chairman, it is my opinion and my conviction that we are sitting here today in one of the most solemn and one of the most crucial moments in the history of this House. I believe that the representatives of the people now assembled in this body are at one of the crossroads in the life journey of this Nation. Already we have gone too far, and as the representatives of the people charged by the Constitution with the duty and responsibility of making the law under which the people of this Nation must live, we are now to make the choice which road we shall take. One road will lead us back to representative responsibility and to representative government. The other road will just as surely lead us in the opposite direction and to a destination, at best, unknown.

One road is the sure road—sure because it is marked with the guideposts of 150 years of successful experience in free government. The other is the uncertain road—the road of adventure, of danger and, perhaps, of destruction. Our sense of responsibility, our sense of duty, our common desire to be faithful to our ideals and to the system of government which has always been peculiarly our own, and which has made us as a Nation great and strong and free—all these considerations, Mr. Chairman, demand of us that at this vital turning point we shall take the sure road. [Applause.]

Mr. GIFFORD. Mr. Chairman, I yield 20 minutes to the gentleman from New York [Mr. TABER].

Mr. TABER. Mr. Chairman, night before last, in the dark, in the middle of the night, the President of the United States disclaimed aims at a dictatorship. The advocacy of lump-sum appropriations in violation of the constitutional provisions that appropriations should be made for the purpose intended, the A. A. A. and its regimentation, the N. R. A. and its regimentation, and many of these other bills and this bill, and the attempt to cram through the Supreme Court packing bill a year ago all constitute a trend toward dictatorship, toward the destruction of representative government, and if the President of the United States does not realize that that is a trend toward dictatorship he is the only one in the United States who does not.

So far as the bill is concerned, before I go into the details of it, the best speech on the bill will not be made by anyone on the floor of the House, will not be made by anyone on the radio or the public platform, but will be made by an accident of the Government Printing Office. I read from the bill, on page 42, at the bottom of the page, line 24:

> That this act may be cited as the "Reorganization Act of 1398."

It carries us back to the days of the feudal system. Our liberties are being destroyed, the efficiency of our Government is being destroyed by too much top-heaviness, and they are carrying us back to 1398. That is one time that God's honest truth was told about this bill.

Mr. Chairman, a lot of things have been said here about statements of former President Hoover. Let me read to you a statement that former President Hoover made when he had read this bill:

> The destruction of the independent bipartisan Civil Service Commission is a disastrous backward step. That is much less an Executive function than a regulatory function. The Commission in the field to which it has been limited has shown fine efficiency and ability and integrity of purpose over 50 years. Why destroy it?

I shall take up the bill now by itself. I agree that much reorganization and elimination of agencies should be made. In the last 5 years 75 boards and 40 Government-owned corporations have been established. More than two-thirds of them ought to be dumped out of the window. I shall put a list of them in the RECORD at this point so that the membership may see that the progress that has been made has been made toward enlargement of activities and enlargement of expense and not toward cutting down.

The following independent establishments that may be called regulatory commissions have been established: Railroad Retirement Board, Social Security Board, Federal Communications Commission, National Bituminous Coal Commission, National Labor Relations Board, Securities and Exchange Commission, United States Maritime Commission, United States Housing Authority.

The following independent establishments having promotional or advisory functions have been created: California Pacific International Exposition Commission, Central Statistics Board, Emergency Conservation Work, Farm Credit Administration, Federal Housing Administration, National Archives, National Emergency Council, National Resources Committee, National Youth Administration, Prison Industries Reorganization Administration, Works Progress Administration.

The following Government-owned corporations have been created since the New Deal: Reconstruction Finance Corporation Mortgage Co., Commodity Credit Corporation, First Export-Import Bank, Second Export-Import Bank, Corporation of Foreign Security Holders, Home Owners' Loan Corporation, Federal Savings and Loan Insurance Corporation, Tennessee Valley Authority, Tennessee Valley Associates Cooperatives, Electric Home and Farm Authority, Federal Farm Mortgage Corporation, Production Credit Corporations (12), Federal Surplus Commodity Corporation, Federal Prison Industries, Inc., Virgin Islands Co., Federal Subsistence Homestead Corporation (in liquidation), Public Works Emergency Leasing Corporation (in dissolution), Emergency Housing Corporation (in dissolution), Central Bank for Cooperatives, District Banks for Cooperatives (12), Federal Deposit Insurance Corporation, Federal Crop Insurance Corporation, R. F. C. Disaster Relief Corporation, Farmers' Home Corporation.

In addition there have been created in the various departments a large number of bureaus, divisions, branches, services, and administrations.

All told, the number of regulatory commissions, promotional agencies, Government corporations, and new bureaus, divisions, and branches probably total in excess of 75.

Mr. DOWELL. Mr. Chairman, will the gentleman yield?

Mr. TABER. I yield.

Mr. DOWELL. Is it not the purpose of the bill to dispose of those organizations?

Mr. TABER. Certainly not. No proposal has come from the Executive to get rid of any useless board or function, and there are hundreds of them in the Government.

Mr. DOWELL. They are increasing all the time.

Mr. TABER. All the time. Under this reorganization section, the power of the President, if we want to safeguard ourselves, ought to be limited as was proposed by the Wheeler amendment over in the Senate, so that there should be, on the recommendations of the President, affirmative action of both Houses of Congress in a joint resolution before they should become effective. I do not believe that the Congress will refuse to eliminate any useless function or to consolidate functions that should properly be consolidated; but I do not believe that he should be turned loose, where it is necessary to pass a bill with a two-thirds vote in order to get rid of a proposed bad consolidation.

I shall now address myself for just a moment to this proposed welfare outfit. This welfare outfit can have transferred to it $4,000,000,000 of activities. It will be so cumbersome that it cannot be efficient, and it will lose the effective supervision of all these other activities in the independent agencies or under the Cabinet officers who have them in charge at the present time. It is not for efficiency; it is not for economy. The only efficiency to be promoted would be the consolidated propaganda that would descend upon the House of Representatives and the Senate of the United States for the promotion of projects designed to take money out of the Treasury of the United States. But worst of all are those words in line 11, page 45:

The Secretary of Welfare shall promote the cause of education—

And the word "education", in line 16, indicating that all of those things that could be done under the so-called Federal control of education bill would be authorized. We could have appropriations of funds to be allocated to the States, provided they complied with rules set up by the commissioner of education in this department of welfare. For my own part, I have always stood, sir, in favor of the education of our youngsters under the control of the people in their own community, where their own parents would have something to say about how the children should be educated. I do not believe in destroying the educational system of the country or of turning it over to a bureaucrat in Washington. [Applause.]

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. TABER. I yield.

Mr. MAY. On that very subject of the welfare department, by the language in lines 9 to 16, on page 45 of the bill, 11 different powers are conferred upon the director. May I ask the gentleman if he remembers that last year when this bill was up, before certain funds were to be appropriated to the States that legislation was being written in Washington and sent down to the legislatures of the several States with the request that they pass that particular legislation or not get a dime?

Mr. TABER. That is correct. Here is the situation: Continuous appropriations for relief would be authorized by this. All sorts of irregular practices that should not be made the permanent policy of the Government would be authorized. This whole paragraph ought to be stricken out.

Mr. CRAWFORD. Mr. Chairman, will the gentleman yield?

Mr. TABER. I will yield for one question; then I cannot yield further.

Mr. CRAWFORD. Do I understand that under this bill the Federal Bureau of Investigation, which is headed by J. Edgar Hoover, can be thrown under civil service, and that he will have to select his employees for running down kidnapers and desperate criminals through civil-service procedure?

Mr. TABER. It can be done, yes; but let me get to this Budget and accounting feature. While the pending amendment is better than the Senate bill, because the Senate put the whole thing under the Budget, it cannot be placed under the Budget without creating a ridiculous situation. The curse of the thing is that the independence of the Comptroller General is absolutely destroyed by giving him a term during the pleasure of the President. Complaints have been odged against the Comptroller General. It has been alleged by bureaucrats that he has interfered with administration. The committee went into this situation and found that there was no interference with administration, but that the Comptroller General had refused to let the bureaucrats violate the law and spend money for purposes for which it was not appropriated, and that made the bureaucrats sore. That ought not to be allowed. Let me say to you that if you pass this bill and do away with the fixed, definite term for the Comptroller General and let him serve during the pleasure of the President, that the President all the time will be under twofold pressure, one from the bureaucrats to force the violation of the law, and the other from the Comptroller General and the people to try and make the bureaucrats behave.

It was the object of Congress in providing for the Comptroller General, to have an independent officer who would make the departments hew to the line, an officer with a fixed and definite term during which he could not be removed. This is an absolute necessity if you are going to have this sort of thing.

Now, you get to the auditor general. It is true, as the gentleman from North Carolina told us the other day, that we have not had submitted to us yearly an audit of the expenditures of the different departments and agencies of the Government. Frankly, I think it is a good thing that it be done, but it can be done by requiring the Comptroller General to do this sort of thing. Likewise reports can be made of claims that have been allowed and statements can be made with reference to illegal expenditures by the departments. These can be presented to Congress in regular order in the form of reports if we require it, and this can be provided for by simple amendment of the budgetary law. It is absolutely unnecessary to duplicate the functions of the

Comptroller General's office by setting up an Auditor General if we were to do the right thing and amend this bill with reference to the Comptroller General, keeping the Comptroller General as an independent officer by giving him a fixed, definite term.

I want to talk just a minute or two about the civil-service provision. I shall take but a minute or two on that.

This civil-service provision provides for a single-headed set-up. It provides for all sorts of things with reference to the power of the President to cover into the civil service and take out of the civil service. Frankly, I believe that the set-up of a single-headed commission endangers the jobs of every single civil-service employee who is on the roll at the present time. It makes him subject to becoming a football of politics. We should not do away with the independent, bipartisan Civil Service Commission that we have had for 50 years and which has worked pretty good.

Another thing this does is to set up an advisory board of seven members, which will cost some money, but that board is not given a single bit of power. It would be absolutely useless in every way so far as performing any satisfactory functions are concerned.

Mr. WOLCOTT. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Michigan.

Mr. WOLCOTT. I call the gentleman's attention to the fact that apparently they pay very little attention or give very little regard to the civil-service administrator, inasmuch as they provide a salary of only $1,000 a year for him.

Mr. TABER. Maybe that is another speech on the part of the Printing Office. I do not believe they intended to cut the head of the Civil Service Commission down to that sum.

Mr. HOLMES. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Massachusetts.

Mr. HOLMES. They would not have to pay that much for a rubber stamp. They could get him for a whole lot less.

Mr. TABER. That is probably so, but we do not want a rubber stamp in there. We want to continue to have a bipartisan civil service board, as we have had in the past 50 years, one that will function, one that will protect the Government, and protect the integrity of the Civil Service Commission. We do not want a commission that will be thrown into the football game of politics.

Mr. HOLMES. As a matter of fact, this provision in the bill will scuttle the civil service?

Mr. TABER. Absolutely. I hope the House will consider this bill very carefully. When the Members of the House consider it carefully I do not believe they will approve the bill. It is not in the interest of efficiency, it is not in the interest of economy, it is not in the interest of the welfare of the civil-service employees, and it is not in the interest of honest administration of government. I hope the Members of the House will turn down the bill when it comes to a realization of just how bad it is, how much damage it will do to our governmental institutions, how much more dangerous and vicious it is than any of us who have had just a little time to study it can imagine.

Mr. SIROVICH. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from New York.

Mr. SIROVICH. Would the distinguished gentleman please tell me who would settle the claims and accounts in this bill, whether that would be the Auditor General, the Treasury Department, or the Director of the Budget?

Mr. TABER. Under the House amendment, the Comptroller General's authority along this line would continue practically as it is. That is, if the House amendment is adopted.

Mr. SIROVICH. What is the House amendment?

Mr. TABER. The House amendment provides for the continuation of the General Accounting Office with a Comptroller General; but it weakens the Comptroller General by making him subject to removal at the will of the President, instead of providing for a fixed term for the Comptroller General of 15 years. This 15-year term would insure his independence. The Budget and Accounting Act provides that the Comptroller General and the General Accounting Office shall be independent of any executive establishment of the Government. This amendment rewrites that particular section, leaving out the words "independent of any executive establishment." Frankly, I do not like to see the Budget law weakened that way.

Mr. SIROVICH. Would that make the Comptroller General the fiscal agent of the House?

Mr. TABER. No; he would not be the fiscal agent of the House. He would be the fiscal agent of the Government for the audit of expenditures and the audit of claims.

Mr. SIROVICH. What about the Auditor General?

Mr. TABER. The Auditor General would be the agent of the House so far as making investigations and reports are concerned. Frankly, if the Comptroller General is continued as an independent officer I do not believe there would be any need for establishing an Auditor General. I believe a few simple amendments requiring presentation to the House of an annual audit of the expenditures of the departments and of the agencies, together with a definite report as to the claims that have been audited by him, including a report as to those violations of law on the part of the departments which he has discovered during the year, would accomplish all of the needs of the situation.

Mr. SIROVICH. Who would take charge of the preaudit if the Auditor General and Comptroller General did not do the work?

Mr. TABER. There would not be anyone.

[Here the gavel fell.]

Mr. GIFFORD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, discussion of this bill in the ordinary manner is impossible. Nearly half of the membership on my side of the aisle has expressed a desire to speak, and we of the committee have cheerfully given of our time. I can only speak of a few things, after an entire year's experience as a member of the special committee.

Briefly, we were first faced with the Brownlow committee report demanding for the President such amazing powers that they hid us away secretly for 14 days in executive session without the privilege even of telling our brother Members what we were discussing, lest during the Supreme Court fight the new demand for further vast powers to be given to the President might be made known to the public. There could be no other reason.

The gentleman from North Carolina [Mr. WARREN] yesterday afternoon made the statement, "We are against the Senate bill in toto." Even the Senate bill that has already been passed is opposed completely. He said that they junked the Brownlow report.

Mr. Chairman, the original asking has been greatly curtailed. It was too shameful to be seriously considered. Now we have a bill relatively mild as compared with the original bill or even the Senate bill, but it will go to conference and we must therefore consider both measures as of equal importance in our deliberations.

The gentleman from North Carolina [Mr. WARREN] yesterday brought in the name of Mr. Hoover. Even the Speaker of this House referred to Mr. Hoover's remarks. It certainly does not lie in the mouth of any Democrat to quote Mr. Hoover even for his own would-be advantage. It will not change the vote of a single Democrat.

Certainly no Republican vote will be changed, because we understand the matter. President Hoover worked mightily in 1932 to obey the mandate of the Congress. In December he brought in here a notable report on how he thought the Government ought to be reorganized. It was fully explanatory. Without looking at it the Congress took advantage of the 60 days provision and acted, throwing it entirely out of the window. It was a Democratic Congress, although with a majority of only four Members, they say, but it did this, saying in effect, "We will let our President do this reorganizing. He is coming in on March 4."

Then the gentleman said the Congress voted for something that President Hoover signed on March 3, the day before he went out of office. That is true. But Mr. Hoover did

it for your President, Mr. Roosevelt, who had already been elected.

Then the gentleman said the Republican Attorney General informed him it was not legal to take 60 days and set aside the Hoover report. He said that we did something illegally, that if we told the President of the United States to reorganize the Government along certain lines and he did it, we could not destroy that by any 60-day reservation or by any concurrent action. Only a law of equal dignity, a joint resolution, subject to veto, could undo even what Mr. Hoover had done. But we did not know it or realize what we were doing when we reenacted the economy bill which was signed March 3, 1933. Mr. Mitchell, the Attorney General, is listed as a Democrat, not as a Republican, in Who's Who. If that has any persuasive power, make use of it.

Having perhaps expected a rebuff of that sort, after having done that magnificent work, when Mr. Hoover found what had been done he naturally said "You must pass a law giving the President authority, and that if you were going to leave matters like this, no President could ever do anything."

Small wonder that he said what he did at that time. But do not quote him now. The picture has changed. There was real virtue and many worthwhile features in that bill of 1932, in respect to the power we gave Hoover and later transferred to any President, but now a dreadful gash has been made in those attractive features. The rape of the Supreme Court was the gash. Things are greatly altered now from what they were 4 years ago. So do not reminisce concerning 4 years ago, since the situation is entirely different. We understand now what any President might try to do. The gash is there but the attractiveness is all gone. Do not talk about that beauty any more. It reminds me of a woman's remark, "She had a good deal to say about my loveliness," and the reply, "Oh, yes; you see she is always reminiscing."

I say again, it does not lie in the mouths of the members of the Democratic Party to try to quote Mr. Hoover. Quote the statements of your own President in 1932, when he came into office and we cheerfully gave him these vast powers. We reenacted that law because he had been before the public saying he would cut out many bureaus. He deplored the great indebtedness of the country. He would reduce the public debt. He would not fill the banks with evidences of indebtedness. That was the kind of President you believed you had when we cheerfully reenacted that power. But how he has changed. Now he writes a letter in the middle of the night and calls the newspapermen out at 2 o'clock in the morning to propagandize this Nation and to assure the people—think of it, needing to assure the country about it—that he did not want to be a dictator. In Heaven's name, why did he mention it?

He said later that because of the condition of the people he had to spend money, that because of the condition of the country he had to have more bureaus. Now, a few weeks hence, as is the way of all other dictators, he might say, "I wrote that letter at a time when conditions were different, but because things are getting out of control a strong hand is needed here in Washington." The Lord knows some of us fear he might feel the call to be a dictator, even though now he says, "I am not fitted for it." Just think of it. "I could not be a dictator," he says. Oh, that is nonsense.

The public are aroused. Who aroused them? Psychology is now at work. It is perhaps largely a matter of psychology. But that does not alter the situation. The public are afraid of this bill, and you know it. Members who are already sworn to support the administration perhaps cannot vote otherwise. Members of the committee who, as I pointed out, have brought in this bill, which is possibly harmless as compared to the original bill, must stick by it, I suppose. But I appeal to you to be actuated by a patriotic motive and at least recommit this bill and let it lie in committee for a time longer, until the Nation's psychology is better. Day after day lately the stock market has gone down and down. Everybody is frightened. I was away for a few days last week and met many businessmen. Yes; the people are fearful. It is not so much this bill itself as it is the dread that the House may not be insistent on its own rights and will be supinely willing to take further dictation from the President.

The President speaks of votes being purchased because people send you letters. What about his own propaganda and his own radio speeches? Is he purchasing your vote? No; he who hath received high honors already must see to it——

Mr. BOLAND of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. GIFFORD. I am very sorry I cannot yield; in fact, I am so sorry that I will yield to the gentleman.

Mr. BOLAND of Pennsylvania. I just want to ask the gentleman if it is not a fact that the Boston Herald has editorially supported the reorganization bill?

Mr. GIFFORD. Oh, we have editors in our camp who have failed us at times. [Laughter.] But almost daily the Boston Post, a Democratic paper, takes issue with this administration so vehemently that those of your party may well pay it heed.

Mr. STACK. Mr. Chairman, will the gentleman yield?

Mr. GIFFORD. I cannot yield further now. I cannot even discuss the different features of the bill, because I wish, if possible, to arouse some of the patriotic people here to the point where they will vote to recommit this bill.

The value of everything the people own is going down and down. Manufacturing plants are closing. It is chiefly unfortunate psychology. The only thing that can possibly be done at the moment to alter this condition is for us to reassert our independence and thus reassure the Nation. If this power is granted, heads will roll all over the departments of this Government through reorganization and change of duties. As I pointed out on Monday, read that speech of the Senator from Massachusetts, wherein he showed that the personnel, not functions only, can be changed overnight. This whole Government of ours will be in jeopardy for 2 long years, little knowing what will be done, and those ambitious secretaries that we are asked to appoint will cause a lot of trouble, I am sure. I should like to quote the Senator on this point:

> The advocates of this transfer of constitutional powers and authority by Congress to the Executive seem blind to the fact that such a course parallels events that have been taking place elsewhere in the world and have contributed to the overthrow of democracies in other countries. It is precisely the same arguments which are advanced here today that have been advanced in other countries to overthrow democracy.

Mr. KNUTSON. Mr. Chairman, will the gentleman yield?

Mr. GIFFORD. Briefly.

Mr. KNUTSON. Speaking of industries that have been shut down, is the gentleman aware of the fact that the Roosevelt furniture factory is closed, and I am wondering whether it was closed in order to embarrass the administration?

Mr. GIFFORD. Oh, practically everything is being closed or shut down, and David Lawrence and all the financial writers are unanimous in saying that the cause of the slump in the stock market is chiefly this reorganization, by which we contemplate giving up our rights to the President of the United States. It is a cowardly surrender. I plead with you that you do not make it.

Will you do away with the watchdog of the Treasury and simply put a pet poodle in its place? This is the language of one of the editorials which I have here. The Comptroller General is no longer to be a watchdog, but being appointed by the President can be removed any minute, and it is simply a case of pet poodle versus watchdog. This is well expressed, is it not?

Mr. Chairman, you have a 5-to-1 majority in this House. We Republicans can only appeal to your patriotism. I am sure you are all friends of mine, because I speak what I believe to be the truth and do not hesitate to criticize when I feel criticism is warranted. I am sure you are friendly, I know you believe I am sincere, and I wish to repeat that the conditions of 4 years ago are completely changed. What we

did then is no criterion. The public mind is inflamed. Its viewpoint is entirely different. Great harm will result if we do this thing now; and by refusing to do it, at least for the time being, we shall be doing a wonderful thing toward bringing back at least some slight feeling of confidence in the country.

I cannot tell you how seriously I regard this matter. Men came to me last week whose business it is to advise people where they can invest their money safely. This is their whole job, and they say with conditions as they are, with a country owing $40,000,000,000 of debt, even a Government bond now looks mighty good to them. Railroad bonds? Think where they have gone.

Can we not do something? This is my whole appeal here. Can we not do something to send forth to this Nation of ours in this hour of discouragement—and it is not a recession, it is not a depression, these figures prove to you it is close to a panic. You must believe it. It must be stopped. You Democrats have it in your power to do it, we have not.

Do not be fooled by this bill you have been presented with here. It goes to conference. You say you will never give up the Comptroller General, but the Comptroller General provided, as explained to you on yesterday by the gentleman from New York [Mr. WADSWORTH] has no power worth mentioning. He is fully under the control of the President, and even after that, if there is a dispute, it goes to the Attorney General of the United States, and his opinion is final. Have we not had decisions enough by the Attorney General backing up this President of ours to prove to us that practically any opinion desired from him by the President will be an approving opinion? No; you have thrown our Comptroller General to the winds. No matter what you may say, you cannot show otherwise.

Mr. DOWELL. Mr. Chairman, will the gentleman yield?

Mr. GIFFORD. Yes.

Mr. DOWELL. If Congress takes away the power of the Comptroller General to compel all the departments of the Government to comply strictly with the law, will it not open the door so that many, many expenditures may be made without curtailment and without the check-up now required of the Comptroller General, and is it not a fact that the Comptroller General has saved the Government many millions of dollars in the administration of his office?

Mr. GIFFORD. Everybody knows that. I protested to the Comptroller General in one case against the junket of cooperatives to Europe. The President himself had ordered the Commodity Credit Corporation to send them to Europe through the use of relief funds belonging to the States. The Comptroller General ruled against the spending of that money, even though it had been ordered by the President himself. He proved his courage and he has proven his usefulness countless other times as well.

True, we ought to economize. We ought to reorganize in the name of economy. But this bill is too covered up with respect to all of these emergency organizations and the idea of putting all these political appointments under the civil service actually to do away with anything. Nothing will really be abolished as a result of it. They will add a department of public welfare, which is frightening even to consider when we think of its potential expenditures. No; they are adding, adding; there is nothing of real economy, which should be the first thing in mind in a genuine reorganization bill.

I plead to the patriotism of the Democratic side of the House. You have the entire responsibility of doing this thing. One gentleman said, "Yes; and we are ready to do it." My friend from New York spoke about the Civil Service Commissioners. It will be lovely when they come to put in a docile, Democratic civil-service administrator for 15 years. I shall thank you gentlemen for your willingness to do that, especially when we come into power. That is lovely, but any person of common sense on the question of policy, knows that a three-, five-, or seven-man board to determine policy is far better than a single docile person entirely under the thumb or even the appointment of one man. It is too ridiculous to contemplate. We have been told that 12 States today have decided that one man is better, but they do not put him in for 15 years. He goes in and out with the administration, unquestionably. Do not try to put that over on this side of the House with so much pleasure, as the gentlemen seemed to feel yesterday.

Yes; once again America stands at the crossroads.

The decision which the House must now make is one fraught with momentous possibilities. It cannot but influence not only the remote future history of the Nation but the immediate future as well—and this despite the fact that should the measure be enacted, few actual changes can occur for some time. But "thoughts are things." A nation's psychology has a tremendous bearing on its well-being or its ill-being.

The people, like business, are already in a highly "jittery" state. For the moment putting aside the question as to whether or not this pending measure is necessary or desirable, the fact remains there could scarcely be a worse time for this debate to occur, this action take place. This era has not been recorded in history, by general acceptance, as the Roosevelt depression. Whatever the actual truth may be, there can be no question but that a vast and daily increasing number of American citizens are now convinced that the administration's policies have failed dismally in their avowed objectives. Grave uncertainty as to the future of the Nation exists. Surely this is no time to add to the existing anxiety.

The eyes of the Nation are focused upon the Congress. We know that party lines have been rent asunder. Real patriotism—a determination to save American democracy and our republican form of government, even in the face of possible political oblivion, is a common occurrence. The action taken by the Congress in the matter of the Supreme Court brought a ray of hope and restored confidence to the Nation. Will the events of this week strengthen this confidence or utterly dispel it?

It would be a wonderful thing if this matter could be debated and decided on pure reason and patriotic grounds, divorced from partisanship, prejudice, or personalities. The decision should be reached on such basis, of course, uninfluenced by hope of benefits or fear of punishment. Most unfortunately, however, this cannot be. The gentleman at Warm Springs, Ga., has himself made this impossible by his gratuitous insult to the Congress—a body coequal with the Executive—and by his utterly amazing piece of personal propaganda to receive and broadcast which the sleeping gentlemen of the press were called from their beds at 2 o'clock this morning. Shakespeare, as always, had words to fit this incident, "Methinks the lady doth protest too much." The situation is also reminiscent of the phrase "Thrice was Caesar offered the crown and thrice did he refuse it." We naturally hope that the President means every word in that letter to the anonymous recipient and will continue to mean them. Doubtless such was the case when he penned the pithy phrases. But the pages of very recent history unfortunately record a great many incidents which plainly indicate that the President frequently changes his mind—to put in mildly. Definite pledges and promises have not been always kept. This is an incontrovertible fact. Of course, there can be but one meaning assigned to this most recent assertion and pledge. It was deliberately intended to influence the action of the House today—a frantic effort to lay to rest certain uneasy and justifiable fears. And as the sort of propaganda which the President has sharply criticized on the part of opponents of his reorganization plan, it goes even further than the passionate and persuasive appeal made over the radio the night before the measure was passed in the Senate by its author. You will recall that after criticizing another for urging patriotic Americans to flood the offices of the Senate with telegrams objecting to the passage of the bill he urged his listeners to flood them with wires urging its enactment. Apparently

this did not happen, according to what we hear. And as for the messages which we have been receiving being inspired propaganda, I would ask what personal or pecuniary benefit would their senders receive? We have known times when propaganda was obviously inspired and the wording of appeals or protest was often identical. In this instance, however, such is certainly not the case. They represent a patriotic sacrifice of time and money, even if only 3 cents for a postage stamp. My own files disclose the fact that not one of the hundreds who have written or wired me about this matter is in favor of the pending measure. All are opposed to it.

This House is faced today with another great responsibility and a great opportunity. The Republicans are willing to aid courageous and truly patriotic Democrats who will attempt to withhold from the President vast additional powers. He has desired complete control of all governmental agencies. The Congress itself, after painstaking and careful consideration, set up these instruments of government. The Congress should carefully preserve its independence and the power to abolish, transfer, or change the functions thereof. This may be a slower process, but far safer than to subject these agencies to the whim of any President. Under the plan proposed there is not even a pretense advanced that it would make for any economy. In fact, the bill proposes to set up an entirely new department with all the dignity and expense accorded to those of similar importance. The Nation views with alarm the granting of this contemplated power to a President who has demonstrated his great ambition to control the entire affairs of the Nation and who has resorted to unheard-of demands upon the Congress for more and more power, even after the so-called emergency period had expired.

The situation regarding this measure has vastly changed during the last several months. The public is now fully aroused as to its real purpose. The Republicans on the special committee have begged for a few days' delay in order that the public might at least be informed that the House committee will not report the Senate bill. Indeed, the Democratic members of this committee have shown real courage and have refused to yield to many of the extraordinary demands made by the President through the Brownlow committee. The joint committee of the House and Senate held several weeks of closed hearings and the members were practically sworn to complete secrecy. Copies of the bill under discussion were not given to the public for some 11 months. Evidently this was thought to be wise, inasmuch as the public was inflamed at the moment over the Court bill and this double grab for most extraordinary power would have further shocked the Nation. I have since learned that a paltry 2,000 copies of those hearings have been available for distribution, but the public conscience was not aroused until open hearings were held by the Senate committee, and as the debate in the other body has progressed during the last month a tremendous volume of opposition has made itself felt. In spite of the great pressure upon Senators and the genuine worry lest their failure to support the President would endanger their chances of reelection, the vote in that body was close, indeed. It clearly shows the disturbance which the proposal has caused and that in the present unhappy lack of confidence it would seem to be our plain duty at least to pigeonhole this legislation, as has been suggested by one of our able Democratic leaders. [Applause.]

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. BACON. Mr. Chairman, I desire to submit a parliamentary inqury.

The CHAIRMAN. The gentleman will state it.

Mr. BACON. As I understand it we are proceeding under the rules of the House where it is within the province of the Chair to recognize any Member he may see fit to recognize for 1 hour. Am I correct in that?

The CHAIRMAN. Of course the gentleman from New York is aware of the fact that in the exercise of discretion by the Chair, the Chair must reasonably recognize certain rules and customs and give recognition first to members of the committee. The present incumbent of the chair feels it is desirable and a proper custom to follow.

Mr. BACON. That does not answer my question, Mr. Chairman. I fully appreciate that members of the committee should have prior rights to recognition, but nevertheless under the rules of the House it is within the province of the Chair, is it not, to recognize any Member he may see fit to recognize for 1 hour?

The CHAIRMAN. It is entirely within the discretion of the Chair and the Chair is exercising his discretion.

Mr. BACON. Mr. Chairman, after the members of the committee have been recognized, and I recognize their prior right, can the Chairman give me any assurance that he will recognize me for 1 hour?

The CHAIRMAN. The Chair cannot and will not give assurance to anyone as to whom the Chair will recognize.

Mr. BACON. In other words, it is the intention to shut off Members from discussing this important question after the members of the committee have been duly recognized, as is their prior right, according to custom?

The CHAIRMAN. The Chair feels that the use of the phrase "shut off" is rather severe. It does not fairly interpret the state of mind of the present incumbent of the Chair. The Chair will exercise his discretion when the time arrives.

Mr. BACON. Will the Chair suggest how an individual Member of the House can obtain recognition?

The CHAIRMAN. For the benefit of the gentleman from New York, the present incumbent of the chair feels that after the recognition of the gentleman from Kentucky, Mr. FRED M. VINSON, who is a member of the committee, then, if the Committee proceeds as it is now doing, the Chair will recognize some member of the Republican Party in opposition. For the further benefit of the gentleman, the Chair would feel that under those circumstances courtesy would prompt him to consult with the minority leader. The Chair has done so.

Mr. BOILEAU. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BOILEAU. The Chair just said that after the gentleman from Kentucky [Mr. FRED M. VINSON] is recognized, the Chair would recognize some member of the Republican Party. I have been seeking recognition and I am a member of neither the Republican nor the Democratic Party. I am a member of the Progressive Party. I call the attention of the Chair to the fact that if the Chair intends to alternate between Democrats and Republicans he ought to state when he intends to recognize third-party members, and I ask the Chair whether third-party members, members of the Progressive Party and the Farmer-Labor Party, are entitled to a hearing.

Mr. O'CONNOR of New York. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. I have propounded a parliamentary inquiry to the Chair. When is it the intention of the Chair to recognize Progressives and Farmer-Laborites?

The CHAIRMAN. The Chair in answer to the gentleman's parliamentary inquiry calls the attention of the gentleman to the reply the Chair made to the gentleman from New York [Mr. BACON]. It is a matter of discretion with the Chair, and the Chair is unable to answer the gentleman's inquiry except to say that if the debate continues the way it has the Chair will exercise its discretion.

Mr. BOILEAU. Will the Chair permit a further parliamentary inquiry? The Chair has already recognized two Democrats and two Republicans and has indicated that the Chair is going to recognize now one Democrat and then one Republican. In view of the fact that the Chair has made that very definite policy in the consideration of this bill, alternating between Democrats and Republicans, and has stated that he intends to recognize another Democrat and another Republican, in all fairness, Mr. Chairman, I believe that we are entitled to know whether or not the Chair has

any intention whatsoever of recognizing a Progressive, or a Farmer-Laborite? I desire recognition and request to be considered in that respect if it is the purpose of the Chair to consider minority parties. After all——

The CHAIRMAN. Has the gentleman finished his parliamentary inquiry?

Mr. BOILEAU. One thing further, Mr. Chairman.

The CHAIRMAN. The Chair appreciates the force of the gentleman's argument but does not feel that it is necessary.

Mr. BOILEAU. One further inquiry, if the Chair will permit. The minority leader——

The CHAIRMAN. If the gentleman will permit, the Chair will answer the pending inquiry of the gentleman from Wisconsin. The gentleman from Wisconsin misconstrues the mind of the Chair when the gentleman says that the Chair has a fixed policy in recognition. The gentleman might infer that, but the gentleman is incorrect in his inference. The Chair has no fixed policy. The Chair has frankly stated that after recognizing the gentleman from Kentucky, the Chair would recognize a Member of the Republican Party, a minority party.

Mr. BOILEAU. I did not quite hear the Chair's statement.

The CHAIRMAN. Of the minority party, the ranking minority party, the Chair will put it that way. [Laughter.]

Mr. BOILEAU. Mr. Chairman, may I propound a further parliamentary inquiry? I think in all fairness we are entitled to have this clarified for the moment. The Chair stated that in recognizing a Republican Member he would consult with the Republican leader. I wish to say that I would be very glad, having been honored with the designation by Members making up the Farmer Labor Party, as their floor leader, to consult with the Chair as to whom he shall recognize among the Farmer-Laborites and Progressives. [Applause.]

The CHAIRMAN. The Chair appreciates the suggestion of the gentleman from Wisconsin, and if the Chair desires the advice of the gentleman in consultation the Chair will seek it.

Mr. O'CONNOR of New York. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. O'CONNOR of New York. In view of the fact that there are four and seven-tenths as many Democrats in this House as there are Republicans, and seventeen and four-one hundredths as many Democrats as there are Progressives, when is the ordinary, run-of-the-mine Democrat going to be recognized? I contend that outside of the committee if the Chair goes to the other side of the House, as it should within reason, that some time some ordinary Democrat might be recognized. I have a superstitution about speaking after sundown. [Laughter.]

The CHAIRMAN. Is the gentleman making a parliamentary inquiry?

Mr. O'CONNOR of New York. That is my inquiry.

The CHAIRMAN. Will the gentleman restate his parliamentary inquiry?

Mr. O'CONNOR of New York. When is an ordinary, common, garden variety of Democrat going to be recognized? [Laughter and applause.]

The CHAIRMAN. Is the gentleman from New York referring to himself when he makes that inquiry?

Mr. O'CONNOR of New York. Yes; and I could go further in the description. [Laughter.]

The CHAIRMAN. The Chair appreciates the modesty of the gentleman from New York. The Chair will state simply that after the Chair has recognized all members of the committee who desire recognition, if the Committee is then proceeding as it is at present, that the Chair, recognizing the modesty of the gentleman from New York, would probably feel constrained to give him recognition so far as the Democratic side is concerned.

Mr. O'CONNOR of New York. That is very nice of the Chair.

The CHAIRMAN. The gentleman from Kentucky [Mr. VINSON] is recognized for 1 hour.

Mr. STACK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Kentucky yield to the gentleman from Pennsylvania for that purpose?

Mr. FRED M. VINSON. The gentleman from Kentucky declines to yield.

The CHAIRMAN. The gentleman from Kentucky is recognized for 1 hour.

Mr. FRED M. VINSON. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. COCHRAN].

Mr. COCHRAN. Mr. Chairman, yesterday——

Mr. MASON. Mr. Chairman, a parliamentary inquiry.

Mr. COCHRAN. Mr. Chairman, I decline to yield for the moment.

Mr. Chairman, yesterday, following the remarks of the gentleman from Ohio [Mr. LAMNECK], I received a message unsolicited.

Mr. DOWELL. Mr. Chairman, a point of order.

Mr. COCHRAN. Mr. Chairman, I refuse to yield.

Mr. DOWELL. The gentleman will yield for a point of order, will he not?

Mr. Chairman, I desire to make a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. DOWELL. Mr. Chairman, I make the point of order that the gentleman from Missouri, having already made one speech on this question, is not again entitled to the floor until all others who desire to speak on the bill have been heard.

The CHAIRMAN. The Chair calls the attention of the gentleman from Iowa to the fact that the gentleman from Missouri was recognized in his own right on a previous day, whereas at the present moment time has been yielded to him by the gentleman from Kentucky, who has control over 1 hour.

Mr. DOWELL. But the gentleman from Missouri was yielded time in his own right and he yielded the time to himself. He now undertakes to occupy the time of others who have not spoken on this question.

The CHAIRMAN. For the reasons stated by the Chair the point of order is overruled.

The gentleman from Missouri is recognized for 5 minutes.

Mr. COCHRAN. Mr. Chairman, following the speech of the gentleman from Ohio [Mr. LAMNECK] yesterday, I received an unsolicited statement concerning part of his remarks.

I ask unanimous consent that the Clerk read in my time the statement, which is very brief.

The CHAIRMAN. Without objection, the Clerk will read the statement.

Mr. STACK. Mr. Chairman, a point of order.

Mr. COCHRAN. Mr. Chairman, I make the point of order that the gentleman's point of order comes too late.

The CHAIRMAN. The gentleman will state his point of order.

Mr. STACK. Mr. Chairman, my understanding is that the gentleman is going to read a statement not his own. Under the rules of the House he cannot do this except by unanimous consent.

Mr. COCHRAN. Mr. Chairman, I make the point of order that the gentleman's objection comes too late. I propounded the request, the Chair put the request, and there was no objection.

The CHAIRMAN. The Chair submitted the unanimous-consent request and there was no objection.

Mr. STACK. I did not hear it.

The CHAIRMAN. The Chair will submit the question to a vote of the Committee.

The question was taken, and the Committee decided in the affirmative.

The CHAIRMAN. The Clerk will read the statement.

The Clerk read as follows:

STATEMENT OF THE RIGHT REVEREND MONSIGNOR MICHAEL J. READY, GENERAL SECRETARY, NATIONAL CATHOLIC WELFARE CONFERENCE

The chairman of the administrative board, National Catholic Welfare Conference, Archbishop Edward Mooney, has authorized me as general secretary to say that the administrative board, Na-

tional Catholic Welfare Conference, has always on principle opposed the conferring of administrative control on Federal educational agencies. If, therefore, the present reorganization of the executive department bill does not extend the powers and functions of these agencies beyond fact-finding and dissemination of information, as at present exercised, there is no reason to suppose that Catholic interests as such are concerned in the legislation. In evaluating any protests from Catholic sources, it would be well to investigate whether these protests have been provoked by misinformation in regard to the bill.

Mr. COCHRAN. Mr. Chairman, statements to the effect that there is anything in this bill that changes existing law as to the operations of the Bureau of Education are simply confusing the issue. When the President sent here a few days ago for the information of the House, and without his endorsement, the report of the Advisory Committee on Education, one Member took the floor and called the attention of the House to the committee report. That Member happened to be myself. I told the Members of the House of Representatives at that time if the recommendations of that committee were followed and if Federal aid to education was provided by the Congress, ultimately the control of education in this country would be in the hands of a bureaucrat in Washington. I warned the Congress to be extremely careful of the enactment of such legislation and I say now, Mr. Chairman, until the Congress of the United States by specific act changes existing law there is absolutely no fear of a Federal official dominating State or local educational facilities in this country. There is nothing in this bill that in any way approaches such an idea. There is nothing in this bill that would enable anyone to administer the laws under which the Bureau of Education is operating other than as it is being conducted today.

Mr. WARREN. Will the gentleman yield?

Mr. COCHRAN. I yield to the gentleman from North Carolina.

Mr. WARREN. In view of the whispering campaign that has started this morning about section 5, page 45, I point out to the gentleman from Missouri and to the committee that section 5 merely sets up and defines the standards of the new departments. It does not enact one single thing into law and, as the gentleman from Missouri has so well stated, anything else pertaining to education must come through an act of Congress.

Mr. TABER. Will the gentleman yield?

Mr. COCHRAN. I yield to the gentleman from New York.

Mr. TABER. It says right in there specifically, does it not, "To promote the cause of education," which language is broad enough to cover almost anything?

Mr. COCHRAN. I do not agree with the gentleman from New York, other than to promote the cause of education as existing law provides.

Mr. TABER. It is very plain.

Mr. COCHRAN. I feel I have given every evidence of being absolutely fair in debate. No statement I have made can be in the least construed as misleading in any way. Let us debate this matter on its merits. If we cannot show beyond question the soundness of this legislation, then I do not ask you to support it. It is my hope that those opposed will follow the same course. As I stated yesterday, we seek only to do that which business, large and small, individually, and through their organizations, have been demanding that Congress do. Dictator—why, did you read the statement of former President Hoover? He stated on his arrival he did not share the opinion that the bill would mean dictatorship. He reminded you that he had always favored the reorganization of the various departments and agencies. Mr. Hoover's experience, not only as President but as Secretary of Commerce, justifies us to accept him as a competent witness.

Let me quote briefly from an editorial in the St. Louis Post-Dispatch, a paper which, I regret to say, in recent years has not given the President the support it did in the first 3 years of his administration. Speaking of one phase of the opposition, the editorial said:

> Most far-fetched of all has been the attempt to build this up into another Supreme Court fight. The President's Court bill would have violated the spirit of the Constitution by permitting the appointment of six new Justices to lifetime seats, for the express purpose of bringing the majority on the Court into line with the views of the Executive. The reorganization bill proposes no power remotely comparable, in kind or degree, to that carried in the Court bill.

I quote the concluding sentence of the editorial:

> Meanwhile, the central aim—efficiency and order in haphazard administrative Washington—is thoroughly sound and not to be lost sight of in partisan or personal politics.

[Here the gavel fell.]

Mr. FRED M. VINSON. Mr. Chairman, it will be my purpose to discuss the title of the bill which deals with the General Accounting Office. I have served in this House for seven terms. Before I was selected as a member of the Select Committee on Reorganization by the Speaker of the House, I believe I had average knowledge as to the functioning of the General Accounting Office. Having also served on the Committee on Appropriations, I had some intimate relations with the General Accounting Office and its functioning. I say to you frankly that I did not know very much about the mechanics of that Office. I was not very well informed in respect to the history of the General Accounting Office. When I became a member of the select committee, I had the same thought in mind that is in the minds of many of you with reference to having maximum control in the legislative branch over the moneys appropriated. I still am actuated by the same thought. I thought that because of the history of the Anglo-Saxon race and the fights that have been made through the centuries to retain in the representatives of the people control over the purse strings.

There has been much misunderstanding as to what the functions of the General Accounting Office are and what this bill does. We hear the cry of "dictatorship." That if the House bill is passed the Executive is going to be given a big stick and the legislative power lessened.

Mr. Chairman, instead of decreasing the legislative power or legislative control over appropriations by the passage of the House language, in my opinion the control of the legislative branch will be increased. I propose to demonstrate that to you.

The question of appropriations and expenditures, the question of the power of the Executive in regard to spending, the power of the legislative in regard to appropriating and controlling expenditures are questions that are centuries old. In the First Congress a great lawyer who has left his imprint upon the lives of Americans now gone and on the lives of Americans yet to be born, James Madison, offered an amendment to give the Comptroller of the Treasury a definite tenure of office.

The remarks of Mr. MADISON as reported (1 Annals of Congress, p. 611) were as follows:

> It will be necessary, said he, to consider the nature of this office, to enable us to come to a right decision on the subject; in analyzing its properties we shall easily discover they are not purely of an executive nature. It seems to me that they partake of a judiciary equality as well as executive; perhaps the latter obtains to the greatest degree. The principal duty seems to be deciding upon the lawfulness and justice of the claims and accounts subsisting between the United States and particular citizens: this partakes strongly of the judicial character, and there may be strong reasons why an officer of this kind should not hold his office at the pleasure of the executive branch of the Government. * * *

Mr. Sedgwick and Mr. Benson, however, were unable to observe any distinction between the Comptroller and any other executive officer. Indeed, Mr. Benson said that—

> by devices of this kind (restricting the President's power to remove the Comptroller of the Treasury) * * * the legislature might overthrow the Executive power (1 Annals of Congress, p. 613).

Apparently the majority of the House agreed with the views of the latter two gentlemen for Mr. MADISON did not press his argument vigorously but withdrew his motion on the following day and the Comptroller of the Treasury in the act establishing that office was constituted a subordinate officer in the executive branch of the Government, removable at the will of the President.

As a matter of fact the question of control over public money was much discussed in the Constitutional Convention. It is very apparent that the framers of the Constitution did not intend for Congress to supervise the expenditures of public funds as a proposal was made in the Convention that the Constitution give to the Congress the power to appoint a Treasurer, so that Congress would have control of the public moneys. Col. George Mason, a great Virginian, argued in favor of that suggestion, maintaining that the public funds belonged to the people and that Congress, as the people's representatives, should appoint and control the officers charged with their custody. The suggestion did not meet with the majority approval of the Convention and was defeated (Documentary History of the Constitution of the United States of America, vol. 3, pp. 548, 743).

So, from the First Congress up to 1921—131 years—all the control of expenditures and the power of audit were in the executive branch of the Government, in the Treasury of the United States. I have never heard anyone say that during those 131 years any element of dictatorship had grown up. For 131 years after the First Congress the control and audit of expenditures was in the executive branch of the Government, in the Department of the Treasury.

Until 1894 the preaudit or the advance decision did not have any binding effect upon the Comptroller. Then you had the Dockery Act, and the advance decision was made binding upon the Treasury. Then you had the six auditors appointed, and the Treasury controlled and audited the expenditures.

What does "control and audit" mean? When I first started this study it did not mean much to me. I heard men who had given the matter a great deal of thought for many years talk about "control and audit," and that phrase was just a couple of words joined together by the conjunction "and." But the words mean just that—"control" of expenditures, and the "audit" of the accounts to see whether the money has been spent properly.

In "control" you have an executive function, and up until 1921, and I may say up until today, both control and audit has been an executive function. Oh, I know our friends say the Comptroller General of the United States is a legislative officer. If you will read the opinions of the courts you will find that regardless of what you call an officer his functions determine whether he is a legislative or an executive officer. The functions of the Comptroller General under the 1921 Budget and Accounting Act are executive.

Until the Budget law was passed, and up until this date, you have had control and audit in the same group. Until 1921 it was in the Treasury, and since 1921 it has been in the General Accounting Office. The Comptroller General determines the availability of an appropriation and he audits the account. In other words, he passes on the correctness of his own acts. This is the reason the Congress has not received any information in regard to the improper or the illegal expenditure of funds. What would you think of this situation? Suppose you are a stockholder in a bank and the cashier runs the show, lending the money and passing on the collateral. He determines how the money shall be loaned and invested.

Then after he acts, it is made his duty to report to the Government on the value of the property owned, or the security on the note, passing on his own acts or the correctness of his accounts. Why, you have a bank examiner who goes into the bank and makes an independent audit of the accounts. He then reports his independent judgment relative to the conduct of the business, thereby protecting the depositors and stockholders from the man who controls the business.

Mr. SIROVICH. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. In just a moment.

Much has been said about the Brownlow committee, and someone spoke about a bill that was prepared by the members of that committee. I want you to get it straight that they did prepare a bill and brought it to the joint committee, but it did not last until the water got hot. A casual glance at it told every member of that committee, as far as I know, that the bill would not even be considered. Then a new bill was presented, and it was some better. But that bill is not the bill under consideration here and is not the bill that passed the Senate.

My friend from Massachusetts [Mr. GIFFORD], a splendid gentleman, made the statement that the House bill in comparison with the Brownlow bill was harmless. I state, in my opinion, the Senate bill is better than the Brownlow bill and the House bill is better than the Senate bill.

I will give you a little history in regard to this bill. It is said we have not had hearings on the bill now under consideration. We had hearings for 13 days before the joint committee. I show you 414 pages of hearings before the joint committee mainly on the General Accounting Office. There were also 10 days of hearings before the select Senate committee of 484 pages. Then there were many days' hearings before the Byrd committee of the Senate, the preliminary report containing 1,085 pages.

Mr. PETTENGILL. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. Yes; I yield to the gentleman from Indiana.

Mr. PETTENGILL. Will the gentleman admit that nobody outside of members of the President's Committee on Executive Management and two men from the Brookings Institution was heard by the gentleman's committee? Nobody from the American Federation of Labor, nobody from the Comptroller General's Office, and nobody from the National Grange was heard.

Mr. FRED M. VINSON. The gentleman has asked me the question.

We met in executive session and started the preliminary hearing with the members of the President's committee and representatives of the Brookings Institution, representing divergent views. It was understood the hearings were to be executive. When they testified, it was determined by the committee that the matter would be made public. Two thousand copies of these hearings were published and made available to the public. The House committee finally found we were not going to town. Your House committee, being very desirous of upholding the prestige and the dignity of this body, decided, "We will prepare our own bill." We came back here and prepared two bills, which the House passed last August—one by a vote of 283 to 75 and the other by a vote of 260 to 88. They were the delegation-of-power and the six-secretaries bills. We also prepared the General Accounting Office bill and the Civil Service Commission bill. We reported these bills from our committee, and those reports have been available since August 19, 1937.

Now, let us compare our General Accounting Office section with the Brownlow report. The Brownlow committee recommended we put the control features of the General Accounting Office in the Treasury. They recommended that the General Accounting Office be abolished and the control functions be put back where they were for 130 years before the Budget and Accounting Act, and then set up an Auditor General to make a post-audit. Some of us did not like this. Some of us felt that the General Accounting Office, despite the criticism, had merited continued existence and by and large had done a good job, even though they had not done what they were set up to do. By our acts, we said we do not believe the General Accounting Office ought to be abolished. We are not for putting its control functions in a spending department of this Government, a big spending department.

Oh, I know our friends over on this side say, "Yes, you retain the General Accounting Office but you make it an executive office. The Comptroller General can be removed." Mr. Chairman, the power of the President of the United States, inherent by virtue of the Constitution, gives him the right to remove an executive officer at his pleasure—*Myers* v. *United States* (272 U. S. 52).

Mr. SIROVICH. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield.

Mr. SIROVICH. The gentleman has made a very wholesome and constructive address to the House. I would like to call his attention, however, to one thing that seems to be confusing to most of the Members of Congress regarding this reorganization bill.

This reorganization bill embodies five principles: First, it permits the President to have more secretaries, which very few people will controvert; second, it gives an opportunity for the development of the civil service upward, downward, and outward through the assignment of one Civil Service Administrator—no one should object to this; third, it gives an opportunity for the creation of a general welfare department that will look after the public welfare, which is something that is found in most of the civilized nations of the world; fourth, it reorganizes from 110 to 115 different agencies and for efficiency and economy provides for their placement in 12 different departments.

Then, fifth, we come to the three things that confuse the Members of the House, and are highly controversial, and they involve the Comptroller General's office.

Will the gentleman first explain to the House why the preaudit which the Comptroller General had before has been taken away from him; and, second, why we have not a uniform system of bookkeeping and accounting for every agency of the Government, and third, why under article I, section 8, of the Constitution, which gives the Congress the right to pay debts, this privilege of settling claims and debts has been taken away from the Comptroller General?

Mr. FRED M. VINSON. I am pleased that my friend from New York has asked me those questions because the first question and the last question relate to things that just have not happened.

I am particularly appreciative of the gentleman inquiring why the function of pre-audit has been taken away from the Comptroller General in the House bill, because that has not happened.

Mr. SIROVICH. That is the statement that has been made by previous speakers on both sides of the house. Will you kindly clarify these misconceptions that have confused most of us?

Mr. FRED M. VINSON. I know; but it is a misstatement because under this bill the Comptroller General will have the same power of pre-audit and the same power to issue advance decisions as he has under existing law. There is not a word in the existing law that states that the Comptroller General shall have authority over the availability of appropriation, and we write that language into this bill. This is done because there is confusion.

The Department of Justice sometimes writes opinions in regard to the availability of appropriations. Now, for the first time, it will appear on the books, if this measure passes, that the Comptroller General shall have the power exclusively to determine the availability of appropriations, but in that same paragraph we say that the Comptroller General shall not have the right to revise the findings of facts by executive heads; in other words, will not have the power to override and overrule the express language of the Congress when Congress places discretion in the hands of an executive agency. In regard to the settlement of accounts, we have written into this bill as clearly as the English language can make it that the power to settle accounts remains in the office of the Comptroller General. In regard to forms, we have a section that gives the Comptroller General power to prescribe the form and manner in which accounts shall be submitted to the General Accounting Office. The Secretary of the Treasury shall prescribe the form, system, and procedure for administrative appropriation and fund accounting in the other branches of Government.

Mr. SIROVICH. Then the opposition is all wrong which contends that preaudit and settlement of claims is taken away from the Comptroller General?

Mr. FRED M. VINSON. No well-informed man will take his place on this floor and say that the power of preaudit, the power to give advance decisions, and the power to settle claims and accounts are not in the Comptroller General. Let me tell you their "out." They say that under this bill—and it is true—we make of the Comptroller General an executive officer, and my friend from New York [Mr. WADSWORTH] yesterday was very careful to say, when he was dealing with the question of the preaudit and settlement of accounts, that it would not be done by the Comptroller General in the name of Congress. That is where this question of control and audit comes in. I propose to convince you by eminent authority that control of expenditures is an executive function under our system of government. I wish to hand you some authority that ought to be pleasing to my friends on the left side of the aisle. I start with Alexander Hamilton as an early authority that the control of expenditures ought to be in the executive branch of the Government. I quote from The Federalist (No. LXXII, Hamilton's Works, p. 450):

> * * * the application and disbursement of public moneys in conformity to the general appropriations of the legislature * * * constitute what seems to be most properly understood by the administration of government. The persons, therefore, to whose immediate management these different matters are committed ought to be considered as the assistants or deputies of the Chief Magistrate, and on this account they ought to derive their offices from his appointment, at least from his nomination, and ought to be subject to his superintendence.

I refer you to the Mason episode in the Constitutional Convention and the Madison amendment in the First Congress, which I have heretofore discussed. Then I submit 130 years of functioning under the Executive. It seems more than passing strange to me that during this entire period of time that there should be no question raised as to the propriety of this responsible work being under the complete control of the Executive. Then I submit the Supreme Court case of Myers against The United States, supra, which deals with the powers of the Executive.

I quote from this case, as follows:

> * * * Article II grants to the President the executive power of the Government—i. e., the general administrative control of those executing the laws, including the power of appointment and removal of executive officers—a conclusion confirmed by his obligation to take care that the laws be faithfully executed * * *.

Then I submit for your consideration the case of *Springer* v. *Philippine Islands* (277 U. S. 189). The question involved was the management of property of the Government. It was held to be an executive function; one that could not be exercised by the legislature or any member thereof. In so holding, the Court said—pages 202, 203:

> Legislative power, as distinguished from executive power, is the authority to make laws but not to enforce them or appoint the agents charged with the duty of enforcement. The latter are executive functions. * * * It (the legislative power) must deal with the property of the Government by making rules and not by executing them.

Then I go out into Colorado and I cite the case of *Stockman* v. *Leddy* (55 Colo. 24, 129 Pac. 220), dealing with the expenditures connected with water rights, and I say to my friends from the West, could there be anything more seriously safeguarded, more necessary to look after, than the water that permits man to live out there in those arid lands? The Legislature of Colorado attempted to tie a string on the appropriation, to see that the disbursements made were spent as the legislative body wanted it to be spent. They set up a committee of the legislature to supervise the spending so they would know it was spent right. The supreme court of that State said that it could not be done, directly or through an agent; that such supervision was purely executive.

I refer to the case of *The People* v. *Tremaine* (252 N. Y. 27, 168 N. E. 817), the decision being written by Judge Pound, a famous jurist in the State of New York, and upon that court then sat Mr. Justice Cardozo. They went into the question of the power of the legislative branch to tie a string onto a dollar after it had appropriated it.

The present Chief Executive of the United States was then Governor of the State of New York. The legislature appointed a committee, as I recall, and perhaps some of our friends were there, made up from members of the house and the senate, to allocate a lump-sum appropriation so that the then State Legislature would see that the money was spent as they, rather than the executive, would spend it. The court said that was unconstitutional. I quote just a short statement from the opinion written by Judge Pound:

* * * The duties here assigned to the legislative chairmen are administrative duties and are not mere incidents of legislation. The legislature has not only made a law; i. e., an appropriation—but has made two of its members ex officio executive agents to carry out the law; i. e., to act on the segregation of the appropriation. This is a clear and conspicuous instance of an attempt by the legislature to confer administrative powers upon two of its own members. It may not engraft executive duties upon a legislative office and thus usurp the executive power by indirection (*Springer* v. *Philippine Islands*, 277 U. S. 189, 48 S. Ct. 480, 72 L. Ed. 845 * * *).

The legislative power appropriates money, and, except as to legislative and judicial appropriations, the administrative or executive power spends the money appropriated. Members of the legislature may not be appointed to spend the money.

Mr. Justice Crane in his concurring opinion said:

The question is whether after having made an appropriation, having authorized an expenditure, the legislature can follow it up, and, through a committee or a single member, take the control or manner in which the appropriation shall be disposed of. There is one thing, however, it cannot do, and that is implied, if not expressed in our Constitution. It cannot exercise the function of the Executive, it cannot administer the money after it has been once appropriated.

There is a very illuminating opinion on this question of division of powers written by Attorney General William D. Mitchell (37 Ops. Attys. Gen. 56). He held invalid a proviso in an act appropriating funds for internal-revenue-tax refunds under which the Joint Congressional Committee on Internal Revenue Taxation was required to pass upon certain refund claims allowed by the Commissioner of Internal Revenue. He concludes that when Congress passes an appropriation to be used for the payment of refunds it could have no part in the determining of such claims for refund. Such refunds he held to be executive in character.

During the administration of Woodrow Wilson it was recognized that the legislative branch of the Government had no information relative to the expenditures of the executive branch. Congress had no check upon it—had no way of knowing how much money was spent or whether it was properly spent. Congress thought it should have that power. It is a power that Congress is entitled to have. It is a power that Congress can have. It is a power that Congress will have, if you pass the provisions of this bill.

Everyone will remember that Woodrow Wilson conceived the idea of the Budget and Accounting Act which was passed in the latter days of his administration. Prominent gentlemen throughout this country came here and testified on the subject before committees. Their thought seemed to be that there should be an independent audit so that Congress would know how that money was being spent. That bill was passed. It went to the President for signature, but because of language contained in the bill that did not give the President of the United States power of dismissal of the Comptroller General, Woodrow Wilson vetoed the bill and put to death his own brain child. I present his veto message at this point.

President Wilson's veto message, Sixty-sixth Congress, second session:

To the House of Representatives:

I am returning without my signature H. R. 9783, "An act to provide a national budget system, an independent audit of Government accounts, and for other purposes." I do this with the greatest regret. I am in entire sympathy with the objects of this bill and would gladly approve it but for the fact that I regard one of the provisions contained in section 303 as unconstitutional. This is the provision to the effect that the Comptroller General and the Assistant Comptroller General, who are to be appointed by the President with the advice and consent of the Senate, may be removed at any time by a concurrent resolution of Congress after notice and hearing, when, in their judgment, the Comptroller General or Assistant Comptroller General is incapacitated or inefficient, or has been guilty of neglect of duty, or of malfeasance in office, or of any felony or conduct involving moral turpitude, and for no other cause and in no other manner except by impeachment. The effect of this is to prevent the removal of these officers for any cause except either by impeachment or a concurrent resolution of Congress. It has, I think, always been the accepted construction of the Constitution that the power to appoint officers of this kind carries with it, as an incident, the power to remove. I am convinced that the Congress is without constitutional power to limit the appointing power and its incident, the power of removal derived from the Constitution.

The section referred to not only forbids the Executive to remove these officers but undertakes to empower the Congress by a concurrent resolution to remove an officer appointed by the President, with the advice and consent of the Senate. I can find in the Constitution no warrant for the exercise of this power by the Congress. There is certainly no express authority conferred, and I am unable to see that authority for the exercise of this power is implied in any express grant of power. On the contrary, I think its exercise is clearly negatived by section 2 of article II. That section, after providing that certain enumerated officers and all officers whose appointments are not otherwise provided for shall be appointed by the President, with the advice and consent of the Senate, provides that the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments. It would have been within the constitutional power of the Congress in creating these offices to have vested the power of appointment in the President alone, in the President with the advice and consent of the Senate, or even in the head of a department. Regarding as I do the power of removal from office as an essential incident to the appointing power, I cannot escape the conclusion that the vesting of this power of removal in the Congress is unconstitutional and therefore I am unable to approve the bill.

I am returning the bill at the earliest possible moment with the hope that the Congress may find time before adjournment to remedy this defect.

WOODROW WILSON.

THE WHITE HOUSE, *June 4, 1920.*

Some of the gentlemen who testified that what we needed was an independent audit were Mr. Good, the chairman of that select committee; Mr. Joe Byrns, whom we all loved and still revere; Mr. Hawley, a splendid gentleman and former chairman of the Ways and Means Committee; Mr. Martin Madden, a really great gentleman, under whom I served as a member of the Appropriations Committee; Mr. Parrish; and Nicholas Murray Butler. I intend to submit excerpts from their statements to show you that what they were after was an independent audit, which is provided in this bill. Let me repeat that the Congress of the United States and the people of the United States have never had an independent audit of the expenditures since this Government was formed. I use my words advisedly—there has never been any independent audit from the beginning of our Government to this good day.

I want to read a short statement made by Mr. Henry L. Stimson, which will show you the way the wind was blowing in this hearing. I want to say for him from my observation of his work when he was here in the Cabinet, from my observation of his views since he severed official connection with the Government, that he strikes me as being a man of courage, vision, and patriotism. He was speaking when there was a Democratic President in the White House, but he was speaking to fundamentals, to a fundamental proposition of law and a fundamental proposition of government. Mr. Stimson said:

You ought to have somebody who will perform the same function of scrutiny and care and investigation for you that is performed in Great Britain by the Comptroller and Auditor General. One thing that I think requires caution about, that is, that the function as I regard it, is a post-audit function. I do not think that that man ought to be given duties which would tend toward making him share executive functions. I mean, I think that would be a diffusion of executive duties which would lead to trouble. In other words, I do not think he ought to have the responsibility of saying beforehand whether sums would be expended. That would simply mean the creation of a little subexecutive, a little subpresident, controlling the department.

Hearings before the Select Committee on the Budget and Accounting Act in 1919:

Mr. Good (chairman), Mr. Joe Byrns, Mr. Hawley, Mr. Madden, Mr. Parrish, Henry L. Stimson, Nicholas Murray Butler.

Mr. BYRNS. As a matter of fact, most of this trouble of duplication and overlapping, I think, can be clearly traced to different interpre-

tations made by officers appointed by the Executive rather than any intent on the part of Congress. It seems to me if we had some official directly responsible to Congress for the purpose of making a report to Congress as to whether or not the money has been expended properly and in accordance with the will of Congress, it would be very helpful to Congress (ibid., p. 141).

By creating this department (Comptroller General) Congress will have applied a practical business policy to the administration of the Government's fiscal affairs. Men will be employed as auditors who owe their positions to their training and ability and who do not secure their positions as a reward for political service. They will be fearless in their examinations and can criticize, without fear of removal, executives who misuse appropriations or whose offices are conducted in an inefficient manner. Congress and its committees will at all times be able to consult with officials of this department regarding expenditures and from it will be able to obtain the most reliable information regarding the use to which any appropriation has been put or the efficiency of any department of the Government. This independent department will necessarily serve as a check against extravagance in the preparation of the Budget. Those appointed by the President and charged with the duty of assisting him in collecting data and in preparing the Budget will realize that their every act and decision will come under the close scrutiny of the accounting department. If duplications, inefficiency, waste, and extravagance exist as the result of any expenditure, the President will be held responsible therefor if he continues to ask for appropriations to continue such practices. The knowledge on the part of every executive and bureau chief that such an independent and fearless department exists, and that every act and deed they perform will come under the closest scrutiny of this department, will in itself force a much higher degree of efficiency in every department of the Government.

* * * * * * *

Mr. PARRISH. Then, too, the Accounting Department provided for in this law under the Comptroller General will be required to audit very carefully all expenditures after the money has once been appropriated, and this will insure that the money will be spent for the purposes for which Congress intended; and it will be the duty of the Comptroller General to advise Congress promptly wherein appropriations have not been spent according to the wishes of Congress. Under the present system Congress has been making appropriations and the money turned over to the various departments of the Government, and unless expensive investigations were ordered Congress did not know whether the money had been expended according to its wishes or not; but under the Comptroller General this evil will be met and careful audits will be made (*Ibid.*, p. 993).

Mr. PARRISH. Then the Accounting Department, which will be under the direction of the Comptroller General, will audit very carefully all the expenditures after the money has been appropriated by Congress, and while in its nature it will be a post mortem examination, yet I feel that it will have a beneficial effect (66th Cong., 1st sess, House of Representatives, October 20, 1919, p. 7204).

Mr. GOOD. The creation of an independent auditing department will produce a wonderful change. The officers and employees of this department will at all times be going into the separate departments in the examination of their accounts. They will discover the very facts that Congress ought to be in possession of and can fearlessly and without fear of removal present these facts to Congress and its committees. The independent audit will therefore, I believe, accomplish a threefold result:

First. It will serve to inform Congress at all times as to the actual conditions surrounding the expenditure of public funds in every department of the Government.

Second. It will serve as a check on the President and those under him in the preparation of his Budget.

Third. It will require every Cabinet member to make a study of his department to the extent that he will become master of the work of the various bureaus under him. He will be made to realize what he has not realized in the past—that he will be responsible for the waste and extravagant use of public funds appropriated for the use of his department (Mr. Good, 66th Cong., 1st sess., House of Representatives, Oct. 17, 1919, pp. 7085–7086).

No; it does not mean that he can direct the application. He reports whether it was applied efficiently; whether it was wisely spent. He has no power to direct expenditures (67th Cong., 1st sess., May 3, 1921, p. 982).

Mr. HAWLEY. He (Comptroller General) is our officer, in a measure, getting information for us, to enable us to reduce expenditures and to keep advised of what the spending departments are doing (Mr. Hawley, ibid., October 18, p. 7136).

Mr. MADDEN. The Comptroller General has no power to take away the discretion of a Cabinet officer as to what shall be done in the discharge of his duty, but he has the power only to pass upon the legal phases of the expenditure of the appropriations, and incidentally to report any delinquencies that may be found in any department in the course of the execution of the work of the department (ibid., October 21, p. 7277).

It will be the function of the Comptroller and Auditor to supply the Congress, that is to be the critic of the administrative branch of the Government under this law, with such information as will enable it to intelligently criticize the acts of the administration (Mr. Madden, ibid., October 21, p. 7294).

Mr. BUTLER (Nicholas Murray Butler, president of Columbia University). * * * In the bill which is pending here, the House bill, that general scheme is outlined, and that officer is described as the Comptroller General. I should prefer to have that officer called the public auditor, because my conception of a comptroller is an officer who goes over payments before they are made, as to their legality. I should prefer to have that in the form of a public audit, going over the payments after they have been paid, not only as to their legality but as to their wisdom, and reporting to the Congress, under the control of Congress. I believe that is where Congress will get its check (Hearings before the Committee on Consideration of a National Budget, United States Senate, 66th Cong., 2d sess., p. 77).

It would seem from the foregoing quotations that the thing that was in the minds of these gentlemen was the securing of information in regard to the manner in which appropriations were spent and that it was purposed to get this information through an independent audit.

There was no mention made of the power of the Comptroller General to determine the availability of appropriations or to make a pre-audit. These powers in the Comptroller General were acquired and finally, after much friction, have grown into custom. But the question of the control feature being in the supposed legislative agent was not the thought that motivated the Congress.

The right to make advanced decisions in reference to the spending of money was a continuation of such power that was granted the Comptroller of the Treasury under the Dockery Act of 1894. Certainly the rendition of advanced decisions then was an Executive function. Permit me to say that the power to render advanced decisions as well as to make pre-audits still remains in the Comptroller General under the House language.

It might be well to just describe what an advanced decision is. I can do that probably by way of illustration.

Let us say that an appropriation of $10,000,000 is made for a certain purpose. Before the spending of the money starts, if they have any doubt about the availability of the appropriation for such purpose, they ask the Comptroller General for an advance decision. If the Comptroller General says, "Spend the money," that is the end of it, even though it may be improper or illegal.

Mr. WADSWORTH. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield.

Mr. WADSWORTH. Is the gentleman sure that that is the end of it?

Mr. FRED M. VINSON. That is the end of it so far as the Congress is concerned, because Congress never gets the information that any act of the Comptroller General is wrong. That is the vice in having control and audit in the same individual, just like the embezzling bank cashier—I use this merely for purpose of illustration—will never say that his accounts are inaccurate; he will never admit that he has done an improper act. Never has the Comptroller General admitted to Congress that one dollar has been improperly or illegally spent, except in one case. I am told that in 1937, in the matter of some Coast Guard depot in Maryland, they reported to Congress that there were some irregularities in the fund. Recently they reported a number of irregularities covering a number of years, but that was not until the office was under fire. But they in no sense are an independent audit. All we have heard here for the past 5 years has been about the waste of money from our friends on the other side of the aisle.

Mr. WADSWORTH. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield.

Mr. WADSWORTH. The gentleman would not contend that the Comptroller General has not prevented illegal expenditures?

Mr. FRED M. VINSON. Let me deal with what he has done. If he has prevented it, then the money has not been spent and there has been no waste. What you gentlemen talk about is the money that has been spent and the money that has been wasted.

Mr. TABER. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. In just a moment. The moneys that have been improperly or illegally spent is what we hear

about. Did you not hear my friend from Massachusetts talk about the excursion to Timbucktoo or some place? Do you not remember hearing them talk about the hundreds of millions and the billions of dollars that have been improperly and illegally spent? If such be true, why has not that been brought to the attention of the Congress of the United States in a report from this watchdog of the Treasury?

Mr. TABER. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield.

Mr. TABER. The gentleman knows, does he not, that the Comptroller General has only authority to stop illegal expenditures? He has not authority to prevent extravagance where it is within the law.

Mr. GIFFORD. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield.

Mr. GIFFORD. I want simply to recall the illustration I gave a little while ago, that the Comptroller General did advise in his letter that he had allowed some of the money that the President ordered to be spent to send the cooperative junket to Europe, and that he had reversed his opinion and ordered that money paid back by those individuals who made that trip. He did acknowledge that he himself had made an error.

Mr. FRED M. VINSON. By a private letter to a Member of Congress. Now, can we spend our time looking around to find those things? The gentleman from Massachusetts evidently has really done a meritorious service, but I say to you that the people's representatives have the right to have a report in regard to improper and illegal expenditures [applause]; and as long as the same man O. K.'s expenditures he is never going to admit that he is wrong.

In regard to preaudit or postaudit—I do not care which it is—every dollar that is spent has to go through the office of the Comptroller General, and, whether it is a preaudit or a postaudit, he has to put his signature of approval on it; do you not think that the Appropriations Committee and the legislative committees of the House and the Senate should be advised in respect of improper or illegal expenditure?

Mr. KNIFFIN. Will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from Ohio.

Mr. KNIFFIN. Right at that point, does not the matter of securing this information lie entirely in a postaudit?

Mr. FRED M. VINSON. The gentleman is right, and I want to get to that now. Answering the question asked by the gentleman from New York, who now occupies the chair, in regard to a preaudit, may I say it is a much exaggerated function. You would think by the statements of those who are opposing the House bill that every single voucher that is issued is preaudited before the money is paid. That is wrong. You never have a preaudit unless the disbursing officer asks for it. Only 3½ percent of the vouchers in number have a preaudit, according to the testimony of the representatives of the General Accounting Office before the Senate committee, and less than 3½ percent of the dollars have been subject to a preaudit—pages 320–321, 324, 325, 326, 327, 328.

May I tell you what we propose to do in regard to the post audit, because that is the meat in the coconut. The Comptroller General under the present set-up has never made an audit to the Congress of the United States. He has never made an audit of any kind to the Congress. Last year he filed a printed annual report, but for 5 years before that he did not even print the report, and his report is not an audit.

Mr. WADSWORTH. Will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from New York.

Mr. WADSWORTH. In view of the history of the case, according to the gentleman's statement, why was it that the Reorganization Committee did not call Mr. McCarl as a witness?

Mr. FRED M. VINSON. Well, so far as the joint committee was concerned, we were in executive session to hear the members of the Brownlow committee and representatives of the Brookings Institution. However, I do not recall that anyone suggested calling him.

Mr. WADSWORTH. He might have given the gentleman a little information.

Mr. FRED M. VINSON. He may have; but he would have told it to me from the viewpoint of a disappointed man, one who was disappointed because he had not been reappointed. [Applause.]

Mr. WADSWORTH. He was not eligible. He could not be reappointed.

Mr. FRED M. VINSON. My friend from New York thinks he has caught me. He says Mr. McCarl was not eligible. You were around here when his term expired. Do you not know that they tried to get an amendment to existing law making him eligible for reappointment? [Applause.]

Mr. WADSWORTH. I do not know what was tried, but the effort did not succeed and he is not eligible for reappointment.

Mr. FRED M. VINSON. That is right; but it was not his fault that he was not reappointed. He tried very hard to be, or so we heard at the time. You will remember his unfriendly utterances just as soon as he got out of the office.

Mr. Chairman, I may say that the Comptroller General has never made an independent audit of receipts and expenditures as contemplated by the Budget and Accounting Act of 1921. He has never made an independent audit showing irregular accounts as contemplated by the Budget and Accounting Act of 1921. He has never made an independent audit as to the accuracy or inaccuracy of accounts submitted to the Congress by a department or other branch of the Government as contemplated by the Budget and Accounting Act of 1921. In a few instances, possibly in a routine annual report, mention has been made of isolated cases, but, since 1921, there have been millions and millions of vouchers aggregating billions of dollars which have passed through his hands without the independent audit that gentlemen sponsoring the Budget and Accounting Act of 1921 and the Congress, which enacted it, intended him to make to the Congress.

Mr. BACON. Will the gentleman yield?

Mr. FRED M. VINSON. I decline to yield.

Here is what we want to do: We want to bring to the Congress of the United States more power in respect to appropriations and the expenditure of money. The auditor general, under the House bill, is directed by law to audit every voucher issued, whether it be for one dollar, five dollars, a million dollars, or a hundred million dollars. These vouchers are to be sent directly to the auditor general. This auditor general will be an arm of the Congress. The Congress, through this arm, will audit the expenditures of the executive branch of the Government.

Mr. KNIFFIN. Will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from Ohio.

Mr. KNIFFIN. Is it not true that the heads of departments and other establishments at the present time are permitted to exercise discretion in connection with the spending of money and neither the Comptroller General nor an auditor general has power to interfere?

Mr. FRED M. VINSON. Certainly. No officer, whether you call him Comptroller General or whatnot, should attempt to take away the discretion that the Congress places in executive officers. That is the reason, Mr. Chairman, that some 16 Federal agencies, among others, spending hundreds of millions of dollars annually, have been specifically exempted by Congress from the control and supervision of the General Accounting Office. Congress itself thus has recognized the ineffectual control of the Comptroller General.

Some of the corporations and agencies of the Government which occupy this status by solemn pronouncement of the Congress are:

The Reconstruction Finance Corporation.

Federal Reserve Board.

Tennessee Valley Authority.

Federal Deposit Insurance Corporation.
Home Owners' Loan Corporation.
Federal Farm Mortgage Corporation.
Federal Housing Administration.
Federal Savings and Loan Insurance Corporation.
Railroad Retirement Board.
Federal Surplus Commodities Corporation.
Farmers' Home Corporation.
World War Veterans' Act, 1924.
World War Adjusted Compensation Act, May 19, 1924.
Agriculture Adjustment—Rental or benefit payments—Act of May 12, 1933.
Central Bank for Cooperatives—Production Credit Corporations—Production Credit Association—Banks for Cooperatives—Act of June 16, 1933.
Agriculture Adjustment Act, March 18, 1935.

May I say this auditor general would have wide powers. It is as wide as government itself. He would have power to audit all expenditures of all agencies of the Government as an officer of the Congress. We use the same words in appointing him that were used to appoint the Comptroller General, thus making him a legislative officer, since his functions are legislative.

Mr. KNIFFIN. And that includes agencies that are not now required to report to the Comptroller General?

Mr. FRED M. VINSON. Yes. When the auditor general audits it will be an independent audit by an arm of Congress. The Comptroller General under this bill has the right to look it over and say if it is all right or not, and he may say that the expenditure is proper, even though the auditor general says it is not proper.

Then what happens? The auditor general immediately takes an exception. He notifies the Congress of the disagreement between the Comptroller General and himself, so that the Congress can take action.

The principal argument used to support the present auditing and accounting system is that the Comptroller General can and does stop illegal expenditures before they are made. It is asserted that under the reorganization bill the "stable door would be locked after the horse was stolen." The facts are that the Comptroller General's office has no authority whatever at the present time to stop illegal expenditures. This was testified to by the officials of the General Accounting Office when they appeared before the Senate Select Committee on Government Organization.

Mr. BACON. Will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from New York.

Mr. BACON. I do not want to interrupt the gentleman's trend of thought, but I wish he would explain to the Committee section 304 (d), which gives the Attorney General of the United States power to render opinions as to the jurisdiction and authority of the General Accounting Office, and so forth, and such opinion shall be final.

Mr. FRED M. VINSON. I get the question. If the gentleman will read the preceding section, subsection (c), he will see that for the first time there is written into the law exclusive control in the Comptroller General of the availability of appropriations, the determination of whether the money is appropriated for a particular purpose. He exercises that power now, and we have not taken it away from him. We have not taken the power to give advance decisions away from him. We have strengthened his arm in that regard by saying he shall have the exclusive power to determine the availability of appropriations.

I stated a while ago that the Attorney General under existing law at times issues opinions that the department heads and independent agencies accept as the final word. I do not have to tell you who are Members of Congress, and you have to be 25 years or older to be here, about the jealousies that are inherent in mankind, governmental agencies and departments, even in the Federal Government.

This language in subsection (d) limits the power of the Attorney General in respect of the authority and the jurisdiction of the General Accounting Office and subsection (c) maintains without limitation the power in the General Accounting Office over the availability of appropriations.

The language contained in subsection (d) will correct one of the major defects in the Budget and Accounting Act of 1921—a defect which has caused much confusion throughout the years. That act does not speak to the authority and jurisdiction of the General Accounting Office, in consequence of which the Comptroller General has decided his own jurisdiction and authority and thereby usurped many powers vested by Congress in the Executive and other officers of the Government. This cures that defect and if there is any issue between the Comptroller General and any other officer of the Government, the highest law officer in our Government, the Attorney General, upon the application of either party, will settle this dispute as to the authority and jurisdiction. However, in no way does this language impair the exclusive power in subsection (c) vested in the Comptroller General to determine the availability of appropriations nor will it confer upon the Attorney General any power over the availability of appropriations or to pass upon the merits of any particular case.

Mr. BACON. Mr. Chairman, will the gentleman yield further?

Mr. FRED M. VINSON. I must decline to yield.

I wish to pay my respects to the distinguished gentleman from Massachusetts [Mr. LUCE], who has written much on the subject of government. He has been for many years a Republican Member of the House of Representatives from Massachusetts, an outstanding authority on legislative procedure, author of several books, has on several occasions expressed the opinion that the Congress is not warranted in interfering with the expenditure of money that has been appropriated or in supervising the administration of law.

In a book review of Dr. Lindsay Rogers' The American Senate, he stated in the American Political Science Review, volume XXI, No. 1, at page 179:

> Where is the proof that, at any rate in the United States, a legislature has any business to interfere with the spending of money that has been appropriated, or to supervise the administration of law? Those are natural functions under the system of ministerial responsibility, with the Government merely a committee of the legislature itself. But where is the warrant for them in an American Constitution, State or Federal?

In his book, Congress—An Explanation (1926), he stated at page 86 et seq.:

> How far it may be the duty of Congress to concern itself with the expenditure of the money appropriated is a difficult problem, to which curiously little attention has been paid. The Constitution is quite silent on the subject, save only in the provisions about impeachment so far as they bring in the matter under "high crimes and misdemeanors." The legislative branch, of course, may and should watch the other branches with a view to future appropriations as well as to the need of legislation; but has it any responsibility whatever in the matter of how what has already been appropriated is spent? Apparently it has been taken for granted that such responsibility exists. The public seems to have a vague notion to that effect, and it is not lacking in Congress itself, for matters of maladministration are broached there from time to time, and the lower branch has committees on expenditures in the various departments * * *.
>
> Five-sixths of the State constitutions specify in varying language that the three departments of government—legislative, executive, and judicial—shall be distinct. The other constitutions would doubtless be construed to imply the same thing, as always has been done in the case of the Federal Constitution. What business, then, has the legislative branch with the way the executive branch functions, except as legislation and appropriation are concerned?
>
> Of course, the situation is quite different in those countries where ministerial responsibility is the keystone of government. There the committee of the legislative branch that constitutes the cabinet is made up mostly if not entirely of heads of executive departments. They may properly be questioned in the legislative body as to what they are doing in the way of executing the laws. Nothing of the sort is theoretically justifiable under our system of division of powers; it would not be feasible without reconstruction of our legislative systems; and there is grave doubt whether it would be desirable. Congress already fails to convince the Nation that it does efficiently its recognized part of the work of government. Were there to be added the task of inquiry into the processes of administration, for the purpose of securing greater economy and efficiency in the execution of existing law and the

spending of money already appropriated, then of necessity it could give less time and thought to its well-established functions.

WASHINGTON NEWSPAPERS ON DICTATORSHIP

I have here and desire to place in the RECORD excerpts from editorials in Washington papers in regard to this dictatorship business. The newspapers in Washington are close at hand, and they know that this cry of dictatorship is sheer boloney. They know this, and they have said it editorially.

This is from the Washington Times of March 23, 1938:

The talk about threatened dictatorship, Armageddon, and "write-your-Congressman-or-we-perish" is simply window dressing.

Among other things the Washington Post of March 28, and this date is pretty close to the present, states the following:

There is general agreement that a thorough overhauling of the administrative machinery of the Federal Government is urgently needed. Repeated efforts have been made, in fact, to arouse public interest in plans for bringing order into the rather chaotic pattern of the existing executive set-up. Such plans were seriously considered during the Hoover administration, but without result. The present reorganization program simply represents another attempt at reform—it is neither partisan in origin nor sinister in purpose.

* * * * * * *

It is evident that any reorganization plan to be effective must vest large discretionary powers in the hands of the President. The Brownlow committee, indeed, recommended much greater powers than those that would be conferred by the revised Byrnes bill, and it made out a strong case in theory for its proposals. The alarmist outcries against the bill, the charges that it is a plot to give the President dictatorial powers are of course absurd. The experts who directed the study and made the report which constitutes a basis for the proposed legislation are men whose ability and disinterestedness are well known and whose honesty of intention is beyond question. One may not agree with all the committee's recommendations, but there is nothing in them which involves an overthrow of our political institutions or endangers the Constitution.

Mr. David Lawrence on March 30 had this to say, in part:

As a matter of fact, the reorganization bill itself is not as bad as it has been painted. Were any other President in the White House except Mr. Roosevelt, the bill might have had a more substantial margin in its favor.

Do you not think it is getting down to a question of the individual who is in the White House? I am constrained to think that when I read the following from the New York Herald Tribune of March 21, 1938:

It would beat once and for all the difficult effort to turn over the complex problems of remaking the Federal Government to a President singularly inept in every aspect of administration and singularly ambitious to destroy the American system in favor of a one-man dictatorship.

And further from the Evening Star, February 11, 1938, page A–9, column 1:

Business is so indifferent to the reorganization bill because it sees only some Machiavellian scheme for national dictatorship that an opportunity is being missed to lay the foundations for a real nonpolitical reorganization of the Government machinery.

And the Washington Herald, February 28, 1938, page 6, column 1:

Fortunately, an opportunity is being presented this week to both critics and defenders of the administration to join in a corrective measure as the departmental reorganization bill comes up in the Senate.

This project would bring headless commissions and boards within the framework of fixed departments without hampering their independent judicial powers, restore the constitutional balance between President and Congress as to execution of legal directives, and make for better general management of governmental business. It ought to become law in short order.

In conclusion, let me give you a little personal experience. Ten years ago I served on the Committee on Appropriations and sat across the table from the spenders. I know how helpless a Member feels at times, even though he works at the job as does the gentleman from New York [Mr. TABER], when the spenders come to him wanting $500,000 or $500,000,000, in that he does not have facts presented him by some agency of the Government which would permit him to cross-examine the spenders. I chafed at the futility of it when I was on the Committee on Appropriations. Then I made a suggestion with reference to some sort of an agency like this auditor general that would bring information to Members of Congress. Let them be presented with a trial brief, as if they were trying a case in a courthouse, so they can intelligently cross-examine the spenders. There is written into this bill, and I can say I had something to do with writing it, a provision giving to the auditor general inquisitorial powers to check up on the spending of money, whether it is provident or improvident, whether it is wasteful, whether it is illegal, or whether it is uneconomical, and to report to the Congress improvident, improper, or illegal spending.

In another section of this bill we provide that the auditor general shall upon request send his experts who made these examinations to the appropriate committee either in public hearing or in executive session to furnish the Members of Congress with information that will permit them to protect the public interest. I believe untold millions annually can be saved.

So I say to you in closing I have been a friend of the General Accounting Office and I am a friend of the General Accounting Office today. I did not want to see the control function placed in the Treasury, a great spending department. I did want to see the control placed in the Budget, because that would give the Director of the Budget the power to pass upon whether or not legislation was in accordance with the financial program of the President, and, after the legislative authority had been granted, that same Director of the Budget would be the one to say how much money could be appropriated to do a particular thing. Then, it would be the same Director of the Budget who would say how the money should be spent. I believe this is too much power to place in the hands of the Director of the Budget, and I yield to no man in my admiration for Daniel Bell, who is a splendid gentleman, keen, honest to the core, and capable; but you have three different things merging there, and you ought not have your control in such an agency. You ought to have the postaudit made to the Congress by the arm of this great legislative body, such as an auditor general.

Mr. GIFFORD. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from Massachusetts.

Mr. GIFFORD. The gentleman made it quite clear that the departments now prefer to go to the Attorney General rather than to the Comptroller General. Does the gentleman believe he has made it clear that under this bill the Attorney General is clothed with power to set at naught all the opinions of the Comptroller General?

Mr. FRED M. VINSON. I beg to differ with my friend. That statement cannot go unchallenged. The Attorney General has less power in this bill to pass upon the merits of a case than under existing law. However, under existing law he sometimes assumes the power of the Comptroller General in respect of the availability of appropriations. This function is taken away from him.

Mr. COCHRAN. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from Missouri.

Mr. COCHRAN. Does the gentleman recall that the present Congress passed an act relieving disbursing agents of the Government of approximately $300,000 because they had permitted the expenditure of money based upon a decision of the Attorney General of the United States with which the then Comptroller General, Mr. McCarl, disagreed, at the outset, but that later the Comptroller General, through one of his agents, requested the Committee to report in the form of a bill?

Mr. FRED M. VINSON. That is true. In regard to advance decisions our bill makes the Comptroller General submit the advance decision to the auditor general and if the auditor general thinks that such advance decision is in error he reports it to the Congress of the United States. That may save much money that otherwise would be spent.

No Comptroller General under existing law could well afford to report that his advance decision was wrong.

Mr. HOBBS. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from Alabama.

Mr. HOBBS. The distinguished gentleman from Kentucky has made a masterly exposition of the phase of the bill to which he has addressed himself and we are indeed grateful to him. I wonder if the gentleman would mind stating to us why no fixed term was prescribed for the new Comptroller General?

Mr. FRED M. VINSON. You could fix a term if it was desired but that would have no effect upon the President's power of removal.

Mr. THOM. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from Ohio.

Mr. THOM. Is there any provision in this bill for comparative cost accounting?

Mr. FRED M. VINSON. No; not what the gentleman is referring to. We have the Treasury prescribing the forms and accounting procedures for the departments and then the Comptroller General prescribes the forms for reports and statements that come to him, but the cost-accounting feature is not in here.

Mr. LAMBERTSON. Mr. Chairman, will the gentleman yield?

Mr. FRED M. VINSON. I yield to the gentleman from Kansas.

Mr. LAMBERTSON. What bill was the President referring to in his release the other night when he said it should be passed as it is drawn—the Senate bill or the House bill?

Mr. FRED M. VINSON. I presume the President had information at that time, although I can not speak for him, as to the status of S. 3331. It came to the select committee of the House, and all the language in the Senate bill had been stricken and the four House bills were included and reported to the House. So I take it that the President knew about it when he made the statement. [Applause.]

Mrs. ROGERS of Massachusetts rose.

The CHAIRMAN. The Chair recognizes the gentlewoman from Massachusetts for 1 hour.

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. EATON].

Mr. EATON. Mr. Chairman, in common with millions of my fellow citizens and with a majority of this House, I am profoundly shocked and resentful at the proposal to ram this atrocious bill through this House under a gag system that is unworthy of any administration in a free country. If I were in favor of the bill, I would vote against it under these conditions. I consider it an insult to the intelligence of this House and an outrage that here and now we are being deprived of the right of free speech. If this is not dictatorship, what in the name of Heaven is it? For one, I resent this procedure; and I want in the strongest possible terms to express my repudiation of it. When we go back to our people, how are we going to stand up and tell them that we have faithfully represented them here when we have allowed ourselves to be kicked around like a lot of irresponsible and helpless babies?

The learned and lovable gentleman from North Carolina [Mr. WARREN] made a brilliant speech yesterday; and in the middle of it, by a dramatic gesture, he flashed upon us a nocturnal lucubration from Warm Springs. It reminded me of the Biblical incident of Moses coming down from the mountain with the Ten Commandments written on the tablet of stone.

In this remarkable statement the President took his place among the people who only a few days before he had accused of trying to purchase the Senate by sending telegrams, "organized" and otherwise. In this extraordinary letter he assures us that for three reasons at this time he feels constrained not to accept the title of dictator in this country. I quote:

(A) I have no inclination to be a dictator. (B) I have none of the qualifications which would make me a successful dictator. (C) I have too much historical background and too much knowledge of existing dictatorships to make me desire any form of dictatorship for a democracy like the United States of America.

It is significant that these three reasons are purely and entirely personal. There is no mention here of the real reason why no man should aspire to dictatorship in this country, which reason is the genius of American democracy expressed in a written and authoritative Constitution and in the liberties of a free people for 150 years of unparalleled progress.

Mr. HOBBS. Does the distinguished gentleman consider this lucubration from Warm Springs as authoritative as the Ten Commandments?

Mr. EATON. I do not, but at this moment there are some in this House who seem to so consider it, and for that reason they are attempting to cram this legislation down our throats. I think it is the acme of impropriety to have a statement like that coming from that source served upon the Members of the House at this time; and if we have not the self-respect to resent it and express our resentment by our vote—and I am talking now to men regardless of politics—there is something wrong with the representation of the people of this country in this House.

I am opposed to this reorganization bill for many substantial reasons. It appeared here originally as a companion piece to the revolutionary attempt on the part of the President to obtain control of the Supreme Court. While this particular bill is a diluted form of the original expressed desire of the Executive, it contains many dangerous violations of the rights of the people and involves a real surrender of the freedom and responsibility of Congress itself.

The provision affecting the office of the Comptroller General constitutes a mere legislative subterfuge. The net result of this particular title is to destroy the present office of Comptroller General as an agent of the Congress for the validation of the expenditure of public moneys. It reduces the Comptroller General to the level of a chief bookkeeper acting as a servant of the Executive and not of Congress. It creates a glamorous new functionary known as the auditor general, whose main duty will be to carefully lock the door after all the horses of expenditure are out of the stable and in a highly dignified manner apprise Congress that the money has been spent.

One of the most vicious provisions of this bill deprives Congress of its constitutional authority and places one-third, or a minority of both Houses, at the behest of the President, in absolute control of effectuating the provisions of this bill.

The civil-service proposal of the bill spells the death knell of any adequate protection for the employees of the Government. They become simply pawns in the hands of the Executive. It throws away the advance of 50 years in civil-service reform and reestablishes the spoils system, which makes public employment a matter of partisan politics only.

The proposed welfare department will thrust the Federal Government deep into the educational system of the 48 States. It contains a serious menace to parochial and other religious educational systems and threatens to spawn a new and numerous brood of bureaucrats to fatten at the public purse.

At this moment our country is in the grip of universal fear, due primarily to the persistent attack upon and interference with the wealth-producing agencies of the Nation by the present Federal administration. In view of this alarming situation it is the urgent and solemn duty of the House of Representatives to reject this reorganization bill and thus give to our distraught citizens at least a ray of hope that they can depend upon their Representatives in this House to protect their rights and interests.

Mr. Chairman, I express the hope that in this challenging moment the people of our country will be properly represented by free men on this floor, who will vote to lift the burden of anxiety that grips the people today, and turn this thing back to the ash can of oblivion where it belongs. [Applause.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa [Mr. THURSTON].

Mr. THURSTON. Mr. Chairman, today we are seeking to amend the Constitution of the United States by transferring the dominant authority in this country from the Congress to the executive branch. I have in my hand the Constitution and note that the first reference to the three coordinate branches is made to the legislative body, and throughout this great instrument the subservience of the executive branch to the legislative is evident. This body has a right to bring impeachment proceedings against the Chief Executive as subordinates, and likewise the Senate has the right to try that impeachment. Yet we are seeking to diminish and to undermine our own power. I can understand, if they march soldiers into the legislative halls in Berlin with fixed bayonets, or use castor oil in the legislative body at Rome, that the members of those bodies are forced to give up and surrender their power; but it is in an amazing situation that we have reached in this country when some of the Members of this Congress will willingly propose a bill and work for the opportunity, not only to undermine their prerogatives, but to say to their constituents that they are no longer needed; that a dictator shall act in their stead. As sure as this bill passes it paves the way for further surrender of legislative power. You propose to establish a precedent to violate every law and rule that is followed by every organization in the United States, whether it be a church, a fraternal organization, or any other quasi-public body. The directors of a board or the members of those organizations appoint the auditing committee to examine into the financial transactions of their own officers. The auditing is never turned over to those who spend the money. They retain that power, but here you are seeking to place it in the hands of the Executive, the power to check his own accounts; and if, as is reported, resignations in blank are required in advance of an important appointee from the executive branch, then that officer is not free to act because of the shadow that hangs over his tenure of office.

Last year the Senate and House passed a bill providing that the President of the Senate and the Speaker of this House should appoint certain Members to act on a joint committee to assist in a celebration of the exposition to be held in New York City. That measure was vetoed because the present Chief Executive in effect said, "You Members of the House of Representatives and of the Senate have encroached upon the prerogatives of the President." That bill involved the appointment of some Members and other citizens who were to act temporarily in a very limited sense; yet the President comes here and appeals to you, yes, demands of you, that you should pass this measure to further entrench him in his power. What have you received as a concession from the Executive branch? Constantly the President has demanded that you should surrender your powers and give more and more to the Executive, and when a measure of very little consequence threatens to only slightly diminish his powers, he does not hesitate to offer this slight to the presiding officer of this body and the presiding officer of the other body in vetoing a measure extending a courtesy to them, because he is unwilling to allow these able leaders in his own party to exercise that limited power.

Gentlemen, when you go home, will you be the same Members of the Congress who so stoutly and frequently insist that you have stood up down here as free men, as members of an independent legislative body fearlessly representing your people, or will you slink down the alleys, afraid to face your constituents, who undoubtedly, by the thousands, will challenge the surrender which you have made here, if you shall have voted for this bill.

The range of discussion devoted to the bill before us in this Chamber, and at the other end of the Capitol, has been rather extensive. However, Members need make no excuses in this connection, because it is proposed by this legislation to strip the American Congress of powers which are inherent to an independent legislative body, which have been rightly vested in the two coordinate bodies by the Constitution. It is an amazing presumption on the part of the Chief Executive to suggest, let alone to insist, yes to demand, that this legislative power be surrendered to a branch which, under the Constitution, was created for the express purpose of executing laws, rather than to enact laws. Throughout the Constitution, the legislative branch is considered the dominant, rather than the subordinate body. If you pass this bill, in effect, you Members, not the people, will amend the Constitution.

If such a broad proposal had been suggested by the Chief Executive to the Congress of the United States 5 or 10, or any number of years prior to the advent of the present administration, such a suggestion would have been regarded as a distinct affront, yes an insult, to the House of Representatives and to the Senate of the United States. But recently, these two bodies have been so willing to surrender their powers that it is not surprising that they are now being asked to virtually act as a door mat for the Chief Executive.

Rather than traverse the ground so thoroughly and searchingly explored and analyzed by others, I prefer to briefly discuss two other phases of the subject which have not been referred to in the debates in either body.

First, those currently informed concerning economic conditions in the country understand that there are probably as many unemployed persons in the United States today as at any other time; also, that unemployment is increasing, and trade and industry have been receding at a rapid rate. Hunger is an incident of unemployment. Therefore, why should the Congress impose upon the President additional duties of reorganizing the executive branch of the Government, when the primary interest of both the legislative and subordinate branches of the Government should be directed toward making an endeavor to reduce the mounting unemployment rolls, and to restore normal employment in the country.

Reorganization is a rather old subject, dressed up in new spring garments, probably in an effort to divert the attention of our people from important and serious matters. Surely, no sound reason can be given why we should now be wasting our time in this body enacting laws which will have absolutely no helpful effect upon the deplorable conditions which now exist in our country.

Then, when we make a brief survey of the international situation, we know that the peace of the world is now being threatened on two continents, and it will take the clear, sound judgment of the leaders in public life in our country if we are able to avoid being drawn into one of these current conflicts.

Other than employing our people, what could be more important than to map out and assure a course of action that will continue peaceful relations between our country and other nations of the world? Quarreling with or punishing subordinates will not increase employment. The passage of this bill will create dissension and discord, when bread and butter should be on our minds—later, in our stomachs.

Wars mean additional taxes, just as unemployment means additional debts. Would it not be far more beneficial if the present administration would give serious thought to these subjects, which are so important to every man, woman, and child in the Nation? Changing the name of some bureau, dismissing or shifting some Government employees, will not affect or cure unemployment.

The present Chief Executive has not only the ordinary duties of his branch of the Government to exercise, but in the past 5 years a great number of additional activities have been placed under his direction and control, so that this office now is greatly overburdened with important duties and decisions. Who will honestly or logically contend that the duties of this branch should be expanded, particularly at this time? Possibly to give the six new secretaries something to do.

There is another phase which might be discussed with profit in connection with this proposed legislation; and while the Members of the Congress are fully apprised in this respect, it is doubtful if our citizens have given much thought to this phase of the matter. The House of Representatives and the Senate can pass a bill with slightly more than one-half of its membership voting in the affirmative. But if a bill is enacted into a law, and the two legislative bodies desire to repeal that law, and the Chief Executive is unwilling, then the vote of two-thirds of the Members of each body are required to override a Presidential veto. Ordinarily, when laws are enacted, which are general in character, the President may have no greater interest in the retention thereof than a Member of the Congress. However, if great or unusual powers are vested in the President, through the surrender of legislative functions, it is very likely, it is almost certain that the present occupant of the White House, or anyone who may succeed him in this high office, will oppose the repeal of such plenary power. This is a subject matter that should receive most serious thought, in connection with the astonishing legislative surrender proposed in the bill under consideration.

As the Senate is composed of 96 Members, if the Chief Executive, through patronage, or through allocation of large sums of money for public works or employment, can influence the votes of about 30 Members of that body—and there are always some vacancies or Members who are absent and not voting—then Congress will be unable to repeal such laws, no matter how unsound, impractical, or downright vicious or corrupt consequences may flow from this servile surrender on the part of this legislative body, a body which is supposed to be composed of clear-thinking legislators, each of whom has eloquently and earnestly told his constituency and the country about his fearlessness and independence. We shall see.

In public life, in private life, most individuals endeavor to obtain a fair exchange for any commodity or service, or privilege which they may have. Upon many, many occasions in the past few years, the Congress has delegated or surrendered innumerable powers to the executive branch. What has the legislative branch received in the way of concessions from the executive branch in the past 5 years? Absolutely nothing. If this bill becomes a law, what a hearty laugh the President will have at the expense of those whom he pressed into voting for it.

Yet, when the Congress passed a joint resolution, under date of May 4, 1937, establishing a joint commission, authorizing the presiding officers of the Senate and House of Representatives to appoint a commissioner general and two assistants, for the New York World's Fair, and to also provide for the expenditure of an appropriation of Federal funds, the measure was promptly vetoed by the present occupant of the White House, because, as he claimed, it was an infringement upon the powers of the Executive. In other words, the present Chief Executive would not consent to have a few mediocre officials of a temporary character appointed by the Congress, as he stoutly asserted and insisted that such power belonged to the Executive; he would not countenance any such impertinence on your part. But, he has not been slow or timid in asking—even threatening you—to give him powers which you have no right to transfer under the Constitution.

As to whether the present Chief Executive has confidence in or respect for you or the present Members of the National Legislature, public documents show that he has vetoed more bills passed by the Congress in the past 5 years than any of his predecessors in the same length of time, an evidence that he resents legislative interference. Now, ask yourselves, if you want to place almost unlimited authority in the President to discontinue, in fact to destroy, existing units of the Government service.

At this point I ask leave to insert a table which shows the number of vetoes and pocket vetoes credited to each President during the existence of our Government. While a large number is assigned to President Cleveland, a considerable number of these related to private bills, rather than acts of a general character.

Number of bills vetoed in all Congresses

Number of Congress	Name of President	Number of vetoes
1st, 2d, 3d, 4th	George Washington	2
13th, 14th	James Madison	6
15th, 16th, 17th, 18th	James Monroe	1
21st, 22d, 23d, 24th	Andrew Jackson	12
27th, 28th	John Tyler	9
29th, 30th	James K. Polk	3
33d, 34th	Franklin Pierce	10
35th, 36th	James Buchanan	8
37th, 38th, 39th	Abraham Lincoln	1
39th, 40th	Andrew Johnson	21
41st, 42d, 43d, 44th	Ulysses S. Grant	42
45th, 46th	Rutherford B. Hayes	12
47th, 48th	Chester A. Arthur	4
49th, 50th	Grover Cleveland	113
51st, 52d	Benjamin Harrison	41
53d, 54th	Grover Cleveland	163
55th, 56th, 57th (part)	William McKinley	42
57th (part), 58th, 59th, 60th	Theodore Roosevelt	82
61st, 62d	William H. Taft	39
63d, 64th, 65th, 66th	Woodrow Wilson	44
67th	Warren G. Harding	6
68th, 69th, 70th	Calvin Coolidge	49
71st, 72d	Herbert Hoover	35
73d, 74th, 75th (through Jan. 1, 1937)	Franklin D. Roosevelt	221
75th, to date	do	43

NOTE.—This table is compiled as of date Mar. 31, 1938. The data, Washington to Cleveland, first term, inclusive, was obtained from S. Misc. Doc. 53, 49th Cong. Subsequent figures were obtained from officials of the House of Representatives and the Senate. Those Presidents not mentioned did not exercise veto power at any time during term of office.

The foregoing table would indicate that the President would prefer to do his own legislating even when two-thirds of both branches of the Congress are members of his own party.

On the 27th day of July 1937, while considering the portion of this bill which would authorize the President to appoint six additional secretaries, at $10,000 each, plus all the emoluments such as secretaries to secretaries, without end, I placed in the CONGRESSIONAL RECORD tables which showed that there were 115,000 employees in the Government service in the city of Washington, and 725,000 employed by the Government outside of Washington, making a total of 840,000 persons; that many public buildings had been erected in Washington in the past few years, and scores of hotels, apartment buildings, and large dwellings had been leased to house these employees; that a special train carrying Government employees left Washington each morning for Baltimore, where the personnel were employed. Also, that the bill then under consideration did not intend to reduce the number of employees, but was one adroitly written so that the President could dismiss or reassign Government employees at his pleasure. This could be more clearly analyzed by saying that it proposed nothing short of political graft and unfair pressure upon conscientious employees of the Government.

Is it not rather humiliating, my colleagues, to recall the incident when President Roosevelt would not tolerate one slight deviation from what he considered as his prerogative; but he can blandly call upon you now to surrender powers of a thousandfold—yes, of a millionfold—more importance. Which among you will first bow so as to receive this yoke?

What will your constituents say about the proposed surrender? Will you improve your standing as an intelligent, useful legislator in following the course proposed here today, or will you prove to your constituents that you believe in a representative rather than a feudal form of government?

The President has sharply challenged the right of American citizens to communicate with the Members of this body. Undoubtedly, he is the first President to make this assault upon the right of the citizen to petition the Congress. English-speaking people and other peoples of the world have fought wars to obtain and to preserve the right of petition.

To show you how seriously our people are considering this legislation, I quote, not from a telegram but from a post

card sent to me by Mr. R. S. Beall, a typical American citizen, residing at Mount Ayr, in the State of Iowa:

MARCH 29, 1938.

Our pastor, Rev. E. H. Jackson, has called by phone a special prayer meeting for tonight in behalf of the defenders of the Republic in the present crisis in the House and Senate. I have never seen a more intense interest in rescuing the freedom of our institutions and Government than in the present crisis. Every patriotic citizen should stand by you in defense of freedom of our country.

Your friend,

R. S. BEALL.

As between a blustering President and sound, clear-thinking citizens of the State of Iowa, I will take my stand alongside the latter.

We have organizations in this country composed of persons whose forebears served in the Revolution, in the great Civil War, and in more recent wars who glory in the independence and service rendered to their country by these predecessors. I predict that in the years to come it will be a badge of distinction for those who can claim that they had a relative in the Congress who opposed, who fought this abject surrender.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. STACK].

Mr. STACK. Mr. Chairman, I have neither the eloquence nor the persuasiveness of the distinguished gentleman from Kentucky, but I know that the administration realizes they have a hot potato in their hands in this bill, and they need all the shock troops they can bring forth to fortify it. [Applause.]

Mr. Chairman, I come to the Well of the House today because I love America and I think she is the grandest land in the world, or at least has been the grandest land in the world.

Many years ago I left the shores of lovely Erin because, even in my youth, I felt the heel of the dictators then misruling Ireland. I came here to the land of the free, the home of the brave, and the country of inexhaustible opportunities. Uncle Sam has been good to me and to my people—just the same as he was and has been good to your ancestors, all of whom came over here for various reasons, but chiefly because they were politically persecuted in the homeland.

I have a little family back home of boys and girls to whom I want to leave my adopted country and their country still a representative government. The good people in my district and in your district are paying us a salary to represent them in the Halls of Congress, but you and I will not be worthy of our hire if we allow this so-called reorganization bill to pass. I, for one, here in the Halls of Congress, representing the Sixth District of the great State of Pennsylvania, whose political leaders heretofore have betrayed and are now betraying every trust that the 10,000,000 red-blooded American citizens of that great Keystone State have placed in them, will do all in my power by my voice and vote to do away with dictatorships in our Government. In Webster's Dictionary I find the word "reorganization" defined as "the reconstruction or rehabilitation of a corporation usually effected compulsorily."

What is the matter with our Government that it needs to be reorganized compulsorily?

We have gotten along fairly well with it since the days of Valley Forge, when Washington and his little army suffered untold tortures that he and the early fathers might hand us down the country that we have today. Oh, yes; pick up the morning papers or turn on the radio and you will read or hear about the reorganizations that are going on in Europe daily and nightly. Oh, yes; the dictators of Europe are reorganizing. Oh, yes; the dictators are reorganizing, but are they reorganizing for the good of the common people? No. They are reorganizing and overthrowing governments to put the people back in serfdom and to the feudal days; to put the people in concentration camps and the children in state-controlled schools, and offer so-called inducements to the parents to raise large families for fodder for the next war. The state is "god," and all must bow the knee to the twentieth-century Neros ravaging Europe and Asia in their mad lust for power.

Mr. Chairman, I am against this reorganization program for three main reasons: First, as a Representative—as a free, untrammelled Representative that came here to Washington against the wishes of the political dictators back home—I think, in fact I know, I am speaking for the people when I voice my opposition to this bill. I am speaking for the American Legion, veterans in general, Military Order of the Purple Heart, and for the disabled veterans of all wars, who, incidentally, never had a friend, Republican or Democrat, in the White House, and who are the recipients of the benefits that they now get from a grateful country solely because you and I here in the Halls of Congress passed legislation in their favor over the veto of Presidents.

Today here in the Well of the House I am speaking for the National Grange, who say among other things, on page 4193 of the March 28 issue of the CONGRESSIONAL RECORD, that the bill—

Is vicious and strikes at every vital principle in our form of government.

Today here in the Well of the House I am speaking for the American Federation of Labor, who say, among other things, that they were denied a hearing here in the House and that they cannot—

Understand how anyone interested in maintaining our form of government can propose or vote for it.

In the great State of Pennsylvania 400,000 members of the American Federation of Labor are with me and encourage me when I tell you, "Kill this bill."

Secondly, I am against this proposed legislation, and God alone knows where it came from, because it proposes to establish a civil-service administrator instead of the present Civil Service Commissioners. Incidentally, ladies and gentlemen of the House, this brings me back to my college days when one of the rules rigidly enforced was expressed in these Latin words, "Rarus unus, nunquam duo, semper tres." In other words the good perceptors told us that we should seldom be alone, never two, and always three; and in the divine order of things we see three persons in the one God—the Father, the Son, and the Holy Ghost—and surely my colleagues of the House there is no President, past, present, or future, I hope, that thinks himself bigger than God. I personally would rather have my case decided by the three members of the Civil Service Commission than by any one individual. I am against this proposed legislation because it proposes to abolish the office of the Comptroller General and the Accounting Office and turn over to the Chief Executive the control of the purse strings of the Nation.

Thirdly, Mr. Chairman, I am against this proposed legislation for the reason that it proposes a Department of Welfare in the Federal Government which has to do—

With the relief of the needy and distressed and vocational rehabilitation of the physically disabled and in general shall coordinate public health, education, and welfare activities.

As a veteran, who fought and bled for his country I am satisfied with the present Veterans' Administration. I think the Veterans' Bureau is doing a good job.

Who do they propose to make the first Secretary of the Department of Welfare to take care of the needy and destitute? Why, none other than our old friend Harry L. Hopkins. Who is Harry L. Hopkins? Why he is the National Administrator of the Works Progress Administration, who I charge here and now has made a public debauch of that great humanitarian agency, at least in the great city of Philadelphia. Go into Philadelphia, go into my district in the western end of the city and you will see men and women with large families on relief walking the streets looking for the jobs they cannot get because Harry L. Hopkins' political hirelings will not give them their political blessing; while, on the other hand, in the same Sixth District

of Pennsylvania, you will find men and women, not on relief, eating out of the public trough because they have been politically sanctified by the so-called Democratic leadership back home, who were appointed to administer the W. P. A. in Philadelphia when Hopkins knew, for I told him so, that they were not interested in the destitute and needy, but that they were interested solely in promoting a corrupt political dynasty. Hopkins knows this, I told him so, and I can prove what I say, either by affidavit or by competent and trustworthy witnesses. He has known it for at least 2 years and what has he done about it? Nothing.

Almighty God in His goodness and wisdom entrusted to Mrs. Stack's care and to my care five little children, whom I want and she wants the God-given right to educate as we see fit. Do I want Harry L. Hopkins to tell me how I should educate them? How I should bring out and develop the good that is in them? Do I want my children to be wards of the state? Ladies and gentlemen of the House, Republicans and Democrats—all Americans—I am pleading with you my colleagues in the House to let Mrs. Stack and myself live our own lives and take care of our own children as we see fit and let all the good people in my district and in the great State of Pennsylvania and the Nation do likewise.

I am particularly asking you Democrats, who believe in the philosophy of the father of our party, Thomas Jefferson, "that the many shall rule and not the few," for God's sake do not, by this legislation, tear down Old Glory and wrap it around Harry L. Hopkins or any other dictator. [Applause.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. LORD].

Mr. LORD. Mr. Chairman, the people of this Nation are very much afraid of the proposed reorganization bill.

Germany once had a good government, but, little by little, they gave all power and authority to their President. Now Hitler has absolute control. Likewise, Congress has given many of the duties and responsibilities bestowed upon them by the electors to President Roosevelt. If we pass this bill, he will have powers to correspond to the powers given to President Hindenburg. Hindenburg did not become a dictator, but Hitler did.

By the press we are informed that the President says he does not want to be a dictator, which we may accept. However, many believe—and I am one of them—that this brain-trust managers do want a dictator and are only using him as the means to an end—end of republican form of government—and if they succeed he never will be a dictator. They will see to that. But it can happen here.

I have received many telegrams and letters in opposition to this scheme. This may be called propaganda by those favoring the bill, if there be any. The people of this Nation were wrought up and scared when President Roosevelt tried to take over the functions of the Supreme Court. They are just as much up in arms now when they see our republican form of government in grave danger and slipping away from us, with dictatorship at our doors.

Why jam this bill through without giving enough time to discuss it? The bill is only in a rough draft, printed for the first time Thursday morning, and few, if any, have had time to read it, to say nothing about giving any study to the bill. If we were to give this bill a few days to be studied, it would never pass, and that, to my mind, is why the President is trying to rush it through. The people do not want it.

I want to read a few extracts from letters I am receiving from people back home.

Quotations taken from letters from individuals:

"Oppose the reconstruction bill that increases the power of the President."

"More 'power' in the hands of the President is unthinkable; witness his almost daily manifestations of his unfitness. His ambition to be a 'master' of men is abnormal."

"Not a sane or patriotic reason for one-man rule."

"Protest the passage of the reorganization bill giving power to the President which belongs to Congress."

"Stop the passage of the reorganization bill giving power to the executive branch which the Constitution vests in you."

"I consider just another step toward dictatorship in this country."

"This bill is positively not in the interest of democratic government. It will narrow and limit the powers of Congress and the Congressman who votes for this bill is shirking his duty to his constituents. After all Congress represents the people and not the President.

"The abolishing of the Civil Service Commission is enough in itself to warrant its rejection. Everyone to whom I have talked is wrought up about the bill and I believe that you will see reverberation at the fall election if this bill goes through.

"It is in your hands that democracy in our country may continue to live. Your vote against this bill will help toward this end."

"The Federal reorganization bill as now before Congress is one of the most vicious attempts that has ever been proposed on the part of any administration to nullify the prerogative of Congress and place the Chief Executive in a dictatorial position."

"There is great need for an independent auditor who will carry out the will of Congress. Likewise, civil service should be put back on merit where it belongs."

"Kill the reorganization bill so we can still call ourselves American."

"This bill must be killed decidedly to make it clear to the public that we are going to continue along constitutional lines, shutting out all dictatorial proposals and leaving the balance of power in the hands of the duly elected and constituted authorities where it belongs."

"Kill the reorganization bill and stand up for our liberty."

"DEAR SIR: Prayerfully and hopefully we are urging you to do your utmost to defeat the reorganization bill and save our birthright.

"A deformed democracy cannot endure; either fascism or communism will settle the estate. It is a terrible thought to me that a group of men, whether it is 100 or 400, may vote away the birthrights of these thousands of boys and girls now attending our public schools.

"May the good Lord help you and give you strength to fight their battles, to the end that they may live and grow up free citizens in a democracy and not serfs in a totalitarian state. This reorganization bill is one more step to overcentralize authority. It must not pass.

"Respectfully yours."

"DEAR CONGRESSMAN LORD: I exercise the right of petition given me by our Constitution. I do not seek to 'purchase' any Member of Congress.

"I ask you to vote against this reorganization bill and help save our American system of democracy and congressional government.

"I am in dead earnest, and so are hundreds of my friends.

"Respectfully."

Letters from organizations:

"Please keep us from further slavery and vote against the reorganization bill.

"If you had been in Germany within the last few years you would not hesitate." (Equitable Life Assurance Society.)

"In our opinion, the enactment of the Senate bill for the reorganization of Federal agencies in its present form would be a blow to the cause of popular government.

"We are strongly opposed to the scrapping of the Civil Service Commission by the Senate bill and the substitution therefor of a single civil-service administrator, with all that such a move would imply.

"We feel strongly that Congress should retain its direct control of public funds and expenditures through the maintenance of an independent Comptroller General." (National Grange.)

"Our federation, representing 59 farmer-owned and farmer-controlled cooperative associations engaged in the marketing of dairy products for more than 350,000 dairy farmers, is unalterably opposed to the pending reorganization bill." (National Cooperative Milk Producers Federation.)

"Do you want an independent Congress or a collection of 'rubber stamps' masquerading as representatives of the people?" (Columbia University.)

"In our opinion, the Civil Service Commission and the United States Employees' Compensation Commission should be retained as independent agencies." (American Federation of Labor.)

"We are of the further opinion and request that the House provide that any Executive order issued by the President under this bill which consolidates, abolishes, or transfers any bureau or department, or any of their functions, should not be effective until approved by a majority of both Houses." (American Federation of Labor.)

"We object most seriously to the sweeping delegation of congressional authority to the executive branch of the Government. The Congress ought to retain all its constitutional authority in conformity with principles of democratic procedure and democratic government, and that said power ought to be broadened and extended instead of being curtailed or surrendered." (American Federation of Labor.)

"The American Federation of Labor, its affiliated organizations, and its entire membership are greatly alarmed over the serious implications involved in this legislation." (American Federation of Labor.)

I have hundreds more telegrams and letters, coming for the most part from people I know, who are distressed and worried over the thought of our going into a dictatorship. They all see what is happening across the water in Europe and Asia and I believe they have a right to be disturbed.

President Roosevelt has managed this country for the last 5 years, as he and his managers, brain trusters, thought best. He has had a free hand and the cooperation of the entire Nation until they saw what an utter failure he was making of his administration. It is conceded now that he knows little about business. It would seem that he is trying to make conditions as bad as he possibly can in our Nation and some think it is to bring about a one-man control.

I want to urge upon the Members of this House that what they are confronted with today is, or should be, far above political maneuvers. The destiny of our Nation rests with our decision on this legislation.

One great man in the Democratic Party said in substance that he was opposed to a dictator even though he be a good one. Another great man of the party has likewise said, when discussing the Supreme Court, "It is more power than a good man should ask or a bad man should have."

I hope when the vote on this bill comes that men will rise to the emergency and vote for what they know is right, and save our Nation from a dictator.

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield such time as he may desire to the gentleman from Ohio [Mr. JENKINS]

Mr. JENKINS of Ohio. Mr. Chairman, I wish to thank the gentlewoman from Massachusetts for her courtesy in extending to me as much time as I might wish to consume in discussing this most important measure. It is unfortunate that the time has been so limited for this bill is of such importance that every Member of this House should have a chance to discuss this bill and to express his views with reference to it. I shall consume only a short time.

The alacrity and speed with which this bill is being crowded through this House does not reflect credit on those responsible for it. The Senate took several days for the consideration of this measure and if they had taken 1 or 2 days longer we would not have this bill here today, for it would have been defeated in the Senate. Likewise if we would have sufficient time in this House to discuss this bill thoroughly it would be defeated overwhelmingly. My reason for this bold statement is that there is no doubt but that the temper of the American people is overwhelmingly against it. This is attested by the opposition demonstrated by the people everywhere who are flooding this Capital with telegrams and messages of all kinds. If this bill is passed it will be simply because the administration has enough servile supporters in this House to vote for it regardless of the voice of the people. Where are those great self-appointed friends of the people who have been shouting in these Halls so loudly in the last few years that they were sent to Congress purely by the mandate of the people? They have forgotten to listen to the voice of the people. There is no question but that the voice of the people is yet the most potent power in America when the people have a chance to use their voice. It was the people who defeated the Supreme Court bill. The same influences that were at work in trying to foist on the people the legislation regarding the Supreme Court are those who are directing the forcing of this bill today. The President in his midnight letter disclaimed any intention of being a dictator. He says that he has no qualifications for a "successful dictator." But he has all of the marks of one who is ambitious to become a dictator. This is shown by his efforts at discharging Mr. Humphreys against whom he said himself that he had no complaint except that the mind of Mr. Humphreys did not go along with the mind of the President. The Supreme Court thwarted him in this dictatorial course. He further showed signs of it when he openly defied the Supreme Court which is a coordinate branch of the Government with the Executive. He has done the same thing on innumerable occasions with his must legislation. Of course, he would deny that he has ambitions to be a dictator but he admits in his letter that there must be many people who believe that he has ambitions in that direction. I refer to this not that I believe he will ever be a dictator, because I have more faith in the patriotism of the American people but I refer to it because he has from the very beginning of his administration assumed a dictatorial attitude with reference to driving Congress.

It is not safe for a Democratic Member of this House to follow the Democratic leadership. Every Democrat here who has served any length of time must admit that on many occasions they have been herded like a lot of sheep to follow the titular Democratic leadership only to find that after they had shown their loyalty and cast their votes for certain legislation that when that same legislation got to the Senate it was kicked all to pieces and entirely different legislation passed. Just 2 or 3 weeks ago we passed in this House very important tax legislation. We Republicans at that time waged a vigorous fight against a provision in that tax bill which was leveled especially against family and closely held corporations. The people back home arose in arms with the result that enough of the faithful Democrats joined us to defeat that provision. We Republicans made a vigorous battle against other provisions in that bill, such as the undistributed-profits tax. Many of you against your wishes and against the wishes of your constituents followed your leadership only to find that when the bill got to the Senate that provision also had been thrown out. When that tax bill comes back to the House for consideration it will have removed from it all of those objectionable features which the American people implored you to take out, and which you failed to do because of your loyalty to your leaders. These leaders are not following their own convictions in many cases but because of their position as a part of the administration they must follow the dictates of the White House. That is the reason that the President got up out of his bed to dictate this recent letter to them. He knew that the public sentiment was overwhelmingly against him in his attempt to usurp power and he is attempting to stem the avalanche. Therefore I plead with every free Congressman to assert his freedom and to separate himself from unreasonable dictation and heed the voice of his own conscience and the voice of his own constituents.

Today we have listened to a very well-prepared address by the gentleman from Kentucky [Mr. VINSON]. Many of you will follow him because you think he is speaking for the President. Likewise on yesterday the distinguished gentleman from North Carolina [Mr. WARREN] delivered a forceful address. Some of you will follow him because you think that he is speaking for the President. Yet, my friends, both of these gentlemen are openly and notoriously against the program of the President because the President is unqualifiedly for the bill passed by the Senate. Neither of these gentlemen is for that bill. Both of them have left the President. The gentleman from North Carolina said emphatically that he was against the Senate bill in toto. The gentleman from Kentucky is also against the Senate bill in toto for you will notice in this bill that I hold in my hand—S. 3331—that every line in the Senate bill has been marked out and a new bill substituted for it. Now, the gentleman from Kentucky and the gentleman from North Carolina are for the new bill. The President, in his letter to all of you, said this "But there are two cogent reasons why the bill should go through as it is now drawn." He meant the Senate bill. If he did not, then why did he issue such a terrible blast implying that those Senators who supported the Senate bill should be praised for voting for the Senate bill and that they could not have been bought by certain influences, which he criticized. Many Senators who voted against the bill took umbrage because they felt that his blast implied that they might have been bought. In other words, when this bill was before the Senate the President was for the Senate bill. It is only fair to imply that he is still for the Senate bill. Now, if these two mouthpieces of the President have left the President, why should you follow them? If you do follow them you

are against the President for he is for the Senate bill. Again I express the hope that all Democrats as well as Republicans may, when we vote on this bill, feel free to vote as their consciences dictate and as their constituents indicate.

Before I leave this subject let me say that Members who are torn between their loyalty to their party and their loyalty to the people must remember that a situation of that kind is easily resolved when one considers that he is expected to follow his leaders in matters of policy only, but that in matters of principle he is expected to follow his own judgment and his own conscience. This is a matter of principle. The people of the Nation are stirred up. They are afraid that their liberty is in the balance. You cannot help it that they doubt the sincerity of the President. You are not responsible for that situation. If the people honestly distrust the Executive, and if they are afraid that he is going to invade the fields of education and other social fields where no Executive has ever invaded before, it is your duty not to thwart the wishes of the people but to help them to attain what they desire. I am not assuming to advise or dictate, but I know that there are many Congressmen here who if released from the fear of the political lash they would make short shrift of this bill and give the Executive to understand that his place is to execute the laws and not to make them. Just like they gave him to understand that it was his place to execute the laws and not to pass upon them judicially as he was trying to do in the Supreme Court matter.

The people know that the President has nothing but ulterior designs upon the civil service. The control of the civil service is not an Executive matter. It is primarily a legislative matter. If it was strictly an Executive matter, it would be a political matter and employees would be selected from the political standpoint. The very reason for the establishment of the civil service was to get away from politics. Of course, there must be some executives in the civil service and there must be some executive control of the civil service, but it must be such an executive control as the legislative branch will provide. There must be some executive control in the judiciary. The Chief Justice must lead the other Justices. The United States marshal must do his part, but these functions are not executive in any sense that they are under the control of the President. They are not under the control of the President. Likewise the civil service should not be under the executive control of the President. If ever the civil service is placed under the control of the Chief Executive, God pity the civil service from that time forward. The same would be true of the Comptroller General's office.

Likewise it is unwise to place the expenditures of money in the hands of the President and then place the auditing of all those expenditures in the same hands. It is patent that the function of an auditor is to act as a check on the spending agency. We should have a preaudit when we consider the gigantic expenditures of our Government. Likewise we should have a postaudit. All of these should be free from the domination of the President. He should not be permitted to select the person who is to audit his expenditures. If we had no such checks and balances the President would have built the Florida Canal as he started to do and likewise he would have built the Passamaquoddy project as he started to do.

I am sure that the people of the United States are tired of the Congress surrendering its power to the Executive and I for one refuse to do it.

I expect to vote against this bill for all of the reasons above given and many more that I could recite. In these days of toppling markets, with business at a standstill, with 15,000,000 unemployed, and with 20,000,000 on relief rolls, what is to be gained by mixing up the functions of the Government at this time?

I cannot see how this administration could have the effrontery to claim that it now wishes to curtail the overlapping of departments of Government when it has created probably more new departments than all of the rest of the administrations from Washington down to this time. What this administration needs is to do something to inspire confidence in the people. What it needs is to do something to show that it has some ideas of thrift. I defy anyone to find any mention of the word "thrift" anywhere in any of the messages of the President since he has been President. Regardless of how speedily this bill will be forced through this Congress, I expect to be here to cast my vote against it. [Applause.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from South Dakota [Mr. CASE].

THIS BILL DESTROYS THE INDEPENDENCE OF THE COMPTROLLER GENERAL

Mr. CASE of South Dakota. Mr. Chairman, it is unnecessary to indulge in speculation as to the effects of the portion of the bill that relates to the Comptroller General. I refer particularly to sections 303 and 304.

Section 303 repeals the portion of the present law which makes the Comptroller General not removable by the President. Paragraph (d) of section 304 makes the Comptroller General subservient to the Attorney General and reads in part as follows:

> The Attorney General of the United States shall render opinions as to the jurisdiction and authority of the General Accounting Office in connection with the settlement and adjustment of any account or claim, and such opinions of the Attorney General shall be final and conclusive.

The chairman of this select committee made reference to a bill that passed this body last August to adjust certain accounts that were held illegal by the Comptroller General. I am astonished that he made reference to it, because that particular legislation lays bare what sections 303 and 304 do. It is exactly a case in point.

And no Member of the House has been more faithful in trying to protect the Treasury than the gentleman from Missouri, the chairman of the committee which offers this legislation today.

I can explain his attitude today only on the ground that as chairman of the Select Committee on Reorganization it was his job to husband this bill and he is trying to be a good soldier.

Let me give you the background of that legislation as stated in the words of the chairman of the select committee, the gentleman from Missouri, himself. On the 4th of last August we had under consideration the bill, S. 1935, the particular bill to which the chairman referred. The gentleman from Missouri [Mr. COCHRAN] explained the bill in these words:

> The Attorney General had held in an official opinion that the President of the United States had the right to issue an Executive order to adjust the salaries of what might be called temporary or emergency employees. Reference to the report makes it clear that what the President attempted to do by Executive order was to change certain salaries, to increase some salaries and to decrease others, without regard to the civil-service qualifications.

Get the import of that—the increase and decrease of salaries by Executive order without regard to the Civil Service Act and without legislation by Congress. The Attorney General said it could be done; the Comptroller General said it could not. Let me give it to you in the chairman's words. He went on to say:

> The Comptroller General's views were in conflict with the views of the Attorney General. Acting on the advice of his legal adviser, the President issued the Executive order and his Cabinet officers and other administrative officers adjusted the salaries in keeping with the Executive order.

In short, the salaries were changed and were paid without regard to the Civil Service Act and in disregard of the salary schedule established by law. If you want the details, get House Report No. 1414 on S. 1935, and read the RECORD for August 4, 1937. The Attorney General said the increases were necessary for attorneys who were examining titles for the Public Works Emergency Housing Corporation. On his advice, the President issued Executive Order No. 6746 setting forth a schedule of salaries for 19 different grades of employees, listing the corresponding salaries under the Classification Act—in some cases higher, in some lower. But

whatever it was, it was an amendment of the salary schedule of the civil-service laws by Executive order.

The Comptroller General, as the gentleman from Missouri pointed out, held the payments illegal and held the officers making them accountable. So we had to report to Congress exactly what they tell us what we will get from the new Bureau of Audits, a report on the illegal payments after the payments have been made. And what did the report call for? It asked Congress to overlook the illegality and allow credit for the disallowances. You have heard the chairman again this afternoon say it involved about $300,000.

Presenting the adjustment bill last August, the gentleman spoke sharply of such a practice. He said:

> It brings about a situation which your special committee on reorganization is confronted with and that is the constant dispute between the executive departments of the Government, the Attorney General, and the Comptroller General over the question of control of Government expenditures. * * * As I say, that is one of the important questions confronting your reorganization committee at the present time, and it has given us no little concern. We have spent many, many hours discussing it. I do not know what conclusion we will eventually reach, but we are working on it, and do not be surprised if a bill does not come in here at this session of Congress upon the subject.

The Committee on Expenditures in the Executive Departments recognized that this was a serious question. They presented that bill apologetically. Read the debate at that time if you want to know how they felt about the matter when they were speaking from close grips with exactly the situation we have here—the question of placing somebody above the Comptroller General. Mark you—the conflict then was between the Attorney General's opinion and that of the Comptroller General, a conflict between a political appointee and an officer who was made independent for the express purpose of ruling freely and independently on expenditures.

Here is what the committee said at that time in their report accompanying the bill, S. 1935:

> The committee was strongly of the opinion that the conflicting views of the Attorney General and the Comptroller General should have been reconciled before the increases were actually granted. * * *
>
> The committee further feels that too often executive officers have acted in conflict with the opinion of the Comptroller General. Congress created the General Accounting Office to provide a check on Government expenditures.

Congress did. It created the Comptroller General to provide a check on Government expenditures and not to be overruled by some political appointee. Yet the bill before us today, makes the Comptroller General removable by the President and gives the Attorney General final and conclusive authority over his jurisdiction and authority.

The committee, last August, further said:

> The committee, while reporting this bill, wants it distinctly understood that it is not setting a precedent to be followed in the future nor is it condoning the acts of executive officials who disregard the Comptroller General's ruling.

THIS POWER DOES NOT EXPIRE IN 1940

Mr. Chairman, but it is proposed that we shall condone it for all time today. The precedent will be written into the law if we adopt this measure before us today. For here it is proposed definitely for once, and for all, to make the Comptroller General subservient to the Attorney General and to the President. And this, Mr. Chairman, is not any temporary arrangement. This is not a power to expire in 1940. This portion of the bill has nothing to do with reorganization powers granted to the President. This is, in itself, a direct act of legislation, this reducing of the Comptroller General to become a "yes man" for the Attorney General. This is, in itself, a recognition of that contested point—the right of a President, any President, mark you, hereafter to change salaries by Executive order without regard to the Classification Act. That is a point which the gentleman from New York, the genial chairman of the Post Office Committee, entirely overlooked in his defense of the direct civil-service section of the proposed bill.

The committee last August said it was a serious question. The chairman said they were spending many hours working on the problem. They did work on it and this is the result.

But how did they resolve the question?

They resolved the question by making the Comptroller General subservient to the Attorney General. They did it by providing that the President, any President, will hereafter have the authority and power to remove the Comptroller General. They did it by limiting the jurisdiction of the Comptroller General to whatever an Attorney General says it is. And future Attorneys General will be less than human if they, too, do not keep the Comptroller within the limits satisfactory to their chiefs.

They answer the question, Mr. Chairman, not by preserving the independence of the Comptroller General. They did it by abolishing that independence. They did it in the face of that precedent which would forever say an Executive order can change, amend, or annul the salary schedules established under civil-service legislation.

LEGISLATION BY EXECUTIVE ORDER

And, Mr. Chairman, if a President, any President, can disregard salary schedules fixed by the Classification Act, he can rule that other laws involving expenditures can be set aside by Executive order. If the Attorney General is given the power to determine the jurisdiction of the Comptroller General, as this bill definitely proposes to do, the Comptroller General's authority to pass on certain expenditures will be denied by the Attorney General; and, if that is not enough, the President, any President, is to be given the power to remove the Comptroller General.

And if that is not enough the postauditing bureau of audits can bring in a justification bill and give a postmortem legality to the illegal expenditure.

The committee is saying to the Comptroller General and the Attorney General, "You two must get together. You must become one, but the Attorney General must be the one."

That Mr. Chairman is what sections 303 and 304 in the proposed bill do. They destroy the independence of the Comptroller General and they destroy the control of Congress over the expenditures. Henceforth salaries and expenditures can be by Executive order—and that is a power proposed in this bill which, if enacted, does not expire in 1940. [Applause.]

[Here the gavel fell.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. DIES].

Mr. DIES. Mr. Chairman, I have asked for this time in order to speak on behalf of an amendment which will be offered by my colleague and friend, the gentleman from Ohio [Mr. KNIFFIN], a member of the Reorganization Committee. An amendment which will reserve to the Congress of the United States the right to reject any Executivve order by a majority vote and to retain ultimate control should be added to this bill.

I cannot see how any one could oppose such an amendment. I am aware of the fact that some argument has been advanced that it is unconstitutional. That argument is predicated upon an opinion rendered by an Attorney General in a Republican administration. I call your attention to the fact that the interpretation of the Constitution has radically changed since that time. I think that the gentleman from Ohio [Mr. KNIFFIN] will be prepared to present to this House logical reasons why the amendment should be incorporated in this measure. I believe that Congress can retain ultimate control in a constitutional manner. I do not believe that the President of the United States aspires to dictatorship or entertains the slightest idea in that respect.

On the other hand, there is an instinctive fear in the American people against encroachment by the executive department of the Government upon the functions and rights of the legislative department, and when we consider

what is happening throughout the world today, how step by step the rights of the people are being destroyed in the name of liberalism, in the name of the common man and under all sorts of pretexts, it is nothing but wholesome and right that the American people should jealously guard the liberties and rights which were purchased by the blood of their heroic ancestors.

The President has said in his letter he would abide by the concurrent opinion of both branches, and I am sure he will. This being true, neither he nor anyone else should have any objection to the incorporation in specific terms of that provision in this law. You and I are merely trustees who occupy a fiduciary relationship. We are not only dealing with our personal rights, but we are the guardians of the rights, the liberties, and the prerogatives of the American people. We therefore owe a duty to them to jealously guard those rights and to take every possible means to place in plain and unmistakable language such limitations and such restraints as will beyond the peradventure of doubt protect the rights of the American people.

I hope the committee will accept the amendment, which will improve this bill. I know there is a great deal of propaganda which is inspired by political motives, but there is also a genuine belief on the part of many unselfish Americans that we must prevent the concentration of power. This belief is widespread and is not confined to any one class or to any one section. In the interest of the President and of the Democratic Party and of this Congress, it does seem to me there should be no objection to writing into this bill a simple, plain amendment that will reserve to us our functions and our rights as a great legislative body, so that when the Executive orders are issued, at least by a majority vote, if the President has made a mistake, we will have the opportunity to correct that mistake.

Mr. O'MALLEY. Will the gentleman yield?

Mr. DIES. I yield to the gentleman from Wisconsin.

Mr. O'MALLEY. Does the gentleman think this is a wise or auspicious time, in view of the world atmosphere, to extend the powers of any Executive?

Mr. DIES. May I say to the gentleman, I believe that bureaus and boards must be consolidated or abolished in appropriate cases. I doubt very seriously if the Congress will do it. The presence in our gallery of great hordes of people when there is an attempt made to curtail the functions of boards and bureaus, the pressure from certain organized groups, the constant propaganda that hampers us in our undertaking to curtail and eliminate duplicating activities of the Federal Government, all demonstrate that the Executive is in a better position to make recommendations. But still let us not forget it is our primary function and that if we transfer that function without retaining ultimate control we are confessing our inability to do it. [Applause.]

[Here the gavel fell.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. CARTER].

Mr. CARTER. Mr. Chairman, as an indication of how one community in this country stands on the pending question, I want to read a telegram which I received a few minutes ago from the Merchants' Association of Pittsburg, Calif. The telegram is addressed to me and reads as follows:

PITTSBURG, CALIF., *April 1, 1938.*

Congressman ALBERT E. CARTER,
House of Representatives, Washington, D. C.:

Contending that the reorganization bill now before the House is vicious, detrimental to business, and another step toward a dictatorship in these United States, businessmen of Pittsburg, Calif., are planning to close every store and business in the city for 1 day, in protest to passage of the bill, and call upon every other businessman in the country to do the same. We ask you as our Representative to vote against this bill and use all your influence to aid in its defeat.

MERCHANTS' COMMITTEE,
FRANK J. HOLLENDER, *Chairman.*

Let me say that Pittsburg is a thriving city of some 10,000 population and that Mr. Hollender is a leading Democrat of that community. I have no doubt the sentiment expressed in this telegram as manifested in the city of Pittsburg can be duplicated in hundreds of cities throughout the country. I ask the members of the committee to remember you are representing the folks back home. Take into consideration their sentiments before you determine how you are going to vote on this very important question. [Applause.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. POWERS].

Mr. POWERS. Mr. Chairman, I am extremely grateful, particularly in view of the gag rule that has been invoked here by the Democratic majority, to obtain just 1 minute to express my disapproval of this bill. Never in the history of Congress has the majority tried to gag the minority as it is doing at this time. I understand there is a movement on foot to pass this bill or to vote on this bill by tomorrow night so the radio commentators throughout the country on Sunday and the press cannot tell the people of this country just what this bill is. I think this entire procedure is deplorable. I believe we should have a week or a month to debate this bill, and I believe the people of this country believe so, too. [Applause.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield such time as he may desire to the gentleman from Michigan [Mr. DONDERO].

Mr. DONDERO. Mr. Chairman, with 1,100 telegrams and 700 letters on my desk, all protesting against this bill, I rise this afternoon to express my opposition toward this bill so the House and the country may know my stand regarding it.

We are confronted in this Government reorganization bill by a situation strange in the annals of this country, and unparalleled in the history of the Presidency. We are witnessing the spectacle of the administration using every power of persuasion, of threats of punishment, of promises of reward in order to force through this Congress a bill thrusting upon the Chief Executive the very powers which he is so anxious not to have that he awakened the newspaper correspondents at 1 o'clock in the morning down in Georgia to have them notify the Nation of that fact.

All of the fallacious argument, all the belaboring of technicalities of language, all the pettifogging that has been and is being indulged in concerning this measure does not conceal from this Congress and cannot conceal from the country the fact that the powers which would be granted the Chief Executive if this measure passes are dictatorial in their nature and nothing else.

If Mr. Roosevelt meant what he said in that now famous letter to his unidentified friend, which he thought so important to the country that he deemed it necessary to awaken the press correspondents at 1 o'clock in the morning to give them a copy of it, in order that they might convey a nightshirt message to the people, then we ought not to thrust upon him the powers which would be vested in him by this measure.

If he did not mean what he said in that letter to his nameless friend, then the only purpose of that eerie midnight performance must have been to enable the administration leaders in this House to lash this bill through before the rising tide of public protest against it could reach the Members of this body in such volume as to result in its defeat.

In the latter case, the Chief Executive is virtually in a race with scores of organizations and thousands upon thousands of citizens against time. If the administration can force this bill through before this rising volume of public protest can be effective, the President will have these powers, which he declares he does not want, regardless of the Nation-wide protest against the measure.

I am making no charge of insincerity against the President as to his famous midnight epistle, but I do say that the reports which are current concerning administration pressures which it is said were applied while the reorganization

bill was before the Senate contradict both the letter and the spirit of the President's dream-hour declaration.

Mr. Roosevelt has declared that he does not desire dictatorial powers. I declare that the first step toward a dictatorship under a political autocracy is the abdication by the parliamentary body of its own prerogatives and control over Executive acts and public expenditures.

Regardless of what name you give to it, or of the manner by which you choose to excuse it, the provision in this bill that requires a two-thirds vote of this Congress to estop the Chief Executive from any act considered unwise or improper constitutes an abdication of its constitutional functions and duties. I assert that the provision in this bill denuding the Controller General's Department of any power to prevent expenditures of public moneys before such expenditures are made, and which restricts that Department to the mere function of notifying the Congress if, as, and when such illegal expenditures have been made, constitutes an abdication by this Congress of its constitutional function and duty of maintaining control over the expenditures of the public funds.

The country will not be fooled by the propaganda now in full swing to gloss over the dangerous features of this vitally important piece of legislation. The country is now aware of the fact that every conceivable pressure has been brought to bear upon this Congress by the administration to rush this bill through in the face of a volume of public protest rising by the hour.

Despite the effort of the President to cast slurs upon the Members of the Senate who conscientiously opposed this measure over there, despite the effort of the President to cast slurs upon the American Federation of Labor, and the National Grange, and scores of other organizations, and the thousands of citizens who employed their constitutional right of petition to their Representatives to ask that this iniquitous measure be defeated, the country will not be fooled.

Never in all our history has there been such a glaring contradiction as that offered by the present situation in which the President, at 1 o'clock in the morning, assured the Nation that he wants no dictatorial powers, while his leaders in the Congress are employing every device known to parliamentary tactics to lash this measure through the legislative body before the Nation-wide protest against it can be effective.

Who is there who believes that if this measure is passed that the Congress will be able to curb the President in any act he may see fit to take so far as reorganization of governmental departments and agencies is concerned? Who is there who believes, in the face of the recent Presidential court martial of Chairman Arthur Morgan of the T. V. A., that Mr. Roosevelt will not find ways to extend his authority under the terms of this act into every commission and board and independent agency now existing?

Who is there who believes that the civil service will continue to grow and improve under a single administrator as provided for in this bill?

Who is there who believes that that single administrator of the Civil Service Commission would be a courageous official who would defy the spoilsmen of the administration as their grasping fingers reached into the very vitals of the merit system to drag out political patronage, to pay faithful party henchmen political dues?

For 50 years, under Republican administrations, under Democratic administrations, the battle to establish the merit system in governmental service has gone on, and every hour of that time has been a bitter struggle to accomplish an adequate and efficient civil service for the United States of America. For the first time in half a century, Mr. Speaker, if you please, there has been a retrogression in the civil service under the present administration.

There is no question but what under the provisions of this bill, the civil service is at this very hour facing the possibility of wreckage. There is no question but what if this bill passes, with this civil-service provision in it, that the efforts of those who were big enough and broad enough and patriotic enough to put country and principle above political expediency and patronage will within the next 3 years be frustrated and undone.

It is little less than farcical, were it not so tragic, to pretend for a moment that this provision in this bill establishing a single administrator over the civil service will not amount to and will not result in a reversion to the political spoils system in this country.

Consider for a moment the provisions embraced in paragraph (V) of section 402 of the pending measure, which provides that persons not in the service of the Federal Government who are experts in some aspects of personnel administration can be employed at a rate up to $25 per day for consulting with, advising, or attending conferences of representatives of the administration. There is no limit imposed here as to the sums of the taxpayers' money which may be spent for these so-called "experts." There is not a line to say what their qualifications shall be. There is nothing in this act to determine who shall define who are or are not experts to be employed under this blanket authority for indefinite terms at a rate of $25 a day, plus subsistence and other expenses. There is not a line to limit the number of such experts, the duration of their service, the amount of their other expenses, or to define their qualifications. Why, Mr. Chairman, this section, taken in connection with that changing the power and authority of the Comptroller General, leaves a situation where we might just as well vote the Chief Executive lump sums to be expended solely at his discretion, without any check whatever by this Congress, and then go home. Under such a situation, we could at least hold the President responsible for such expenditures. Under the provisions of this bill, however, the responsibility may be passed from the Chief Executive to any one of the 40 or 50 or more heads of departments, by the excuse that they requested the services of an expert.

Why, Mr. Chairman, there has not in the history of this Congress been presented a plan which will more effectively open the door for the distribution of juicy plums and luscious sinecures to political henchmen than is provided in this single paragraph.

Now, Mr. Chairman, consider the next paragraph (VI). That paragraph authorizes the President, or somebody under him, to purchase manuscripts from, or to meet the costs of special studies made by private persons, corporations, or other organizations, at the request of, or in cooperation with, the administration.

Not a line, if you please, defining what kind of manuscripts, what character of studies, how much they shall cost, how many there shall be of them, or what the limit of the total sum so spent shall be.

Why, Mr. Chairman, in the fact of an unbalanced Budget, getting further out of balance every day; in the face of the taxpayers of this country staggering under an intolerable burden of taxation, these provisions are utterly indefensible and inexpressibly dangerous.

Let us consider now, for a moment section 5 of part 3 of the bill establishing the Department of Welfare.

Under section 5, the Secretary of Welfare is authorized to promote the public health, safety, and sanitation; the protection of the consumer; the cause of education; the relief of unemployment, and so forth.

Here again, no limitation except the discretion of the President is provided for. The term "shall promote" is as broad as the ocean and as high as the skies. Under that grant of power, the Secretary of Welfare could proceed to socialize medicine throughout this country. He could make any sort of regulations which he could call "safety regulations." He could do anything he chose under the guise of promoting sanitation. He would be in complete control of education, as well as of relief, and assistance to the unemployed, the aged, and the physically disabled.

Why, under this single paragraph, the Secretary of Welfare would be made a dictator in plain terms. It is un-

believable that we are actually, seriously considering here today granting any such unlimited power to any such official of government, without any limitations upon the money he may spend, and without any definition or limitation of his duties and powers, except that one vague term, "shall promote."

It is little wonder that the National Grange has said that the passage of this bill will leave the Congress of the United States an empty and powerless agency to be used merely for appropriating funds for the use of the executive department of Government.

It is little wonder, if he read this bill which now is before the House, that Mr. Roosevelt thought it was necessary to awaken the press correspondents at 1 o'clock in the morning to tell the country he does not desire dictatorial powers.

Argue as you will, those of you who favor this bill, try to befog the issue as you may, try to plead confidence in the executive department as you will, you are face to face with this stark fact, that you are considering the abdication by the Congress of all of its powers of control over government which is the first step toward dictatorship; such a far step as to make perfectly easy the accomplishment of a political dictatorship in the United States before the people can realize what is happening and before they can gird themselves to defend their liberties.

I warn you now that if you take this step you will make necessary, sooner or later, a revolt on the part of the citizens of this country, and a struggle to recover their lost liberties and their rights of self-government, that will lead to God alone knows what disorder and chaos.

I find it difficult, as I stand here on this floor today, to realize that I find it necessary to raise my voice against any such incredibly iniquitous, dangerous, and unprecedented measure, granting such unlimited powers to the executive branch of the Government as this measure proposes to do.

Every Member of this body knows this moment that the tide of public protest against this bill is rising by the hour. Every Member of this body knows that the volume of that protest is growing by the moment. Every Member of this body knows that if the debate in the Senate had gone a week longer, the reorganization proposal would never have passed that body. Every Member of this body knows that if this measure is not driven through this House by the whip and spur of the administration within the next few days, the volume of public protest will be such that it will never be enacted.

If there are any here who are indulging themselves in the hope that the American people do not know and will not find out how they have been betrayed if this bill is passed, all such are entertaining futile expectations. The American people will know how they have been betrayed. The American people will know how their representatives have failed them. And the American people, although by their protest they may not be able to stop the passage of this bill now, will register their feelings at the polls next November. They will again register their wrath in 1940.

Here we stand today with the eyes of the world upon us, with America the hope and the inspiration of all the peoples of the world who love liberty and believe in democracy. If and when we pass this measure we will betray not only our own citizens, but we will betray the hope of the world. If we pass this bill, we will have spurned the blood of our forefathers shed upon the fields of America to achieve liberty and the right of self government.

Are you ready to take this step? I am not. [Applause.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. PFEIFER].

Mr. PFEIFER. Mr. Chairman, I rise at this time to inform the Chairman of the select committee and the Members of the Committee of the Whole that I am going to offer an amendment tomorrow to part 3, regarding the department of welfare, calling for the secretary of the department of public welfare to be a member of the medical profession. This part clearly states that this department shall promote the public health, which means beyond a question of doubt the beginning of socialization of medicine. One can understand from the phrases used throughout this section that this means not only the beginning of socialization of medicine but also of education itself.

Mr. Chairman, I hope the Committee will accept my amendment. [Applause.]

Mr. BELL. Mr. Chairman, I make the point of order a quorum is not present.

The CHAIRMAN (Mr. TOWEY). The Chair will count [After counting.] One hundred and twenty-two Members are present, a quorum.

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 15 minutes to the gentleman from Wisconsin [Mr. BOILEAU].

Mr. Chairman, I wish to state at this time to the Committee that I think we are much more courteous in recognizing that very important group headed by the gentleman from Wisconsin than is the majority side.

Mr. BOILEAU. Mr. Chairman, I should like to say I come here this afternoon feeling very sincerely that this problem must be disposed of in the interest of the American people. A good deal has been said about this bill being a dictatorship bill. I do not desire to enter into that controversy. I do not desire to go into the technical question of whether this bill does or does not give to the President of the United States dictatorship power. I do say, however, that apparently a large percentage of the people of this country honestly feel, either rightly or wrongly, that this is a dictatorship bill. If we in the consideration of this bill can so amend it as to bring about the desired results of reorganization and at the same time let the people of the United States know the Congress is not surrendering any of its power, we will be doing something in the interest of this great democracy of ours. I appeal to the membership of the House this afternoon to give just a few moments consideration to an amendment I propose to offer at the proper time, which in my judgment will enable this Government of ours to carry on a program of reorganization and at the same time will not mean a surrender to the Executive of any of the power the Congress now has.

The distinguished gentleman from Texas [Mr. DIES], a little while ago referred to the amendment to be introduced by the distinguished gentleman from Ohio [Mr. KNIFFIN]. He referred to the amendment that would provide that before the reorganization plan submitted by the President would go into effect it would have to be approved by a concurrent resolution of both Houses of Congress. To my mind, this proposition seems sound and reasonable. However, the gentleman from Texas pointed out that the President of the United States, and I do not desire at all to take issue with him, questions the constitutionality of using for this purpose a concurrent resolution which merely expresses the opinion of both Houses of Congress, the President's view being that a concurrent resolution could not nullify the act of the President in compliance with a law passed by the Congress. Whether the position of the President is right or wrong, if you will read paragraph 6 of the President's letter to an unknown friend, which was released the other night, I believe you will agree the President at least intimates he would be willing to have this matter in the hands of Congress if it were practicable, or if it could be done within the Constitution. He stated a joint resolution suspending the operation of this law would be necessary. Bear in mind, the existing law, which is carried out in this reorganization amendment, provides that an Executive order of the President must be submitted to the Congress, and Congress has 60 days in which to disapprove the order by a joint resolution.

It does not say by joint resolution, it says by law, which means a joint resolution in this instance, but under existing law, which is carried forward in this bill, if the President's program were disapproved by a joint resolution, that joint resolution disapproving his action would have to go back to the President for his signature, and if he vetoed

the joint resolution disapproving his action, it means that two-thirds of both Houses of Congress would have to act in order to prevent the order from going into effect.

Now, the President says, in effect, he does not need this extra precaution because he made it very clear that he would not, or does not expect to, put any reorganization program into effect if the considered judgment of a majority of the Members of both Houses disapprove such action. So I say to you that in all fairness the President meant to give the country the impression, and did give the country the impression, that on principle he was willing to leave it to the Congress, but he was afraid that action by concurrent resolution would be unconstitutional. Therefore I shall offer this amendment at the proper time:

On page 44, after line 2, insert a new paragraph, as follows:

(4) Section 407, as amended, is amended by striking out all of said section and inserting in lieu thereof the following: "Whenever the President makes an Executive order under the provisions of this chapter, such Executive order shall be submitted to the Congress while in session and shall not become effective unless"—

Bear this in mind, it shall not become effective unless—not until, but unless—

"within 60 calendar days after such transmission Congress shall, by joint resolution, approve such Executive order or orders."

This takes away any question about the constitutionality of it. This means we give him the right to go ahead and work out this problem and submit to the Congress his Executive order, but such Executive order does not become effective in case Congress fails to act, but will become effective only in case the Congress or a majority of both Houses by joint resolution approves the proposition.

I submit, in all fairness, the President of the United States or his advocates for this particular legislation on the floor here cannot say that this does not give ample authority for reorganization of the Government, because I submit that under this proposal everything can be accomplished which Congress, the representatives of the people, are willing to stand for, and nothing more, and this is a fair enough proposition.

Mr. PETTENGILL. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. I yield to the gentleman from Indiana.

Mr. PETTENGILL. The proposition that the gentleman from Wisconsin has laid before the House is substantially the Wheeler amendment?

Mr. BOILEAU. I may say it is substantially that, except the Wheeler amendment goes into writing rules for the consideration of the bill. I do not believe the rules of the Senate should be involved in this legislation. If it becomes necessary in order to insure action within 60 days by the Congress, the House of Representatives and the United States Senate both, if they deem it necessary, can adopt rules for the consideration of this type of legislation in the respective bodies, or they can, under the Constitution, in my judgment, adopt joint rules.

Such rules, of course, would be subject to change; but, after all, if this amendment is put in the bill there are two ways by which we can defeat the program; one is by voting it down and the other is by changing the rules that bring about its consideration; and so long as a majority of the Members of both Houses want the type of reorganization the President recommends, we can act, we are potent, we are able to do the thing; and I submit that when the recommendation or the Executive order comes to this House and to the Senate it comes up, not subject to amendment because the law provides that it shall be approved within 60 days or disapproved—not in part, not this part or that part, but the whole thing. So the question of logrolling is knocked out of it. There is no chance of trading votes. We have got to take it or leave it; and, after all, the President of the United States cannot justify an Executive order reorganizing the Government unless it is of a type that at least a majority of the Members of both Houses are willing to accept. [Applause.]

Mr. NICHOLS. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. I yield to the gentleman from Oklahoma.

Mr. NICHOLS. I believe the gentleman in his amendment uses the words "joint resolution"?

Mr. BOILEAU. That is right.

Mr. NICHOLS. If a joint resolution must be signed by the President before it can have the force of law, even though you provide in your amendment that it will take a joint resolution, if the President refused to sign it, would you not be in the same position you are now?

Mr. BOILEAU. No; that question has been asked me several times. The President submits a program and we adopt it in toto, is there anyone who believes he is going to veto it?

Mr. NICHOLS. But we might refuse to do it by a joint resolution.

Mr. BOILEAU. That is right, and that is the control we have, and then it is as dead as a door nail. We have got to approve it in 60 days, and I would put the 60-day provision in there so no one will say we are leaving it so that it may drag along. We dispose of it immediately and it will be effective.

Mr. NICHOLS. Why not use the word "concurrent" instead of "joint"?

Mr. BOILEAU. Because the President of the United States has said that there is a constitutional question involved. It is just exactly the same thing. It provides for a concurrent resolution. It leaves the control in the majority of this House and the Senate. It accomplishes the same. It brings it back for our approval, and I submit that a joint resolution is preferable to a concurrent resolution because neither the President of the United States, nor anyone else can say it is unconstitutional.

Mr. HARLAN. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. Yes.

Mr. HARLAN. Under law as it is now, if the President submits a plan of reorganization to Congress, and it meets with the approval of Congress, we do not have to have a joint resolution.

Mr. BOILEAU. That is correct. I submit the President must make a recommendation to do it. He makes a recommendation. It goes to a committee. The committee takes it and some gentleman will say, "I do not want this department cut out," or some will say that he does not want the other department interfered with, and as a result, it brings the proposition back here on the floor if it is not acceptable to anybody or to Congress. In other words, the President tells us in advance by this proposal just about the kind of a reorganization bill that he will stand for, and we would have time to know in advance what he wants. We would know that it will not be vetoed, and it must be voted up or down, and if there is any need for a specific rule for consideration of the matter in the Senate or the House, both the House and the Senate have the right to pass their own rules. The Constitution says they can. They can pass any rule they want to. They can adopt the rule that the Wheeler amendment contains if they want to do that. The gentleman from New York [Mr. O'CONNOR] is a firm believer in reorganization, but he wants Congress to reorganize. I am satisfied that the gentleman from New York could within 15 minutes bring a rule back here that would be approved by all Members of the House. Some people have told me that the Senate would never agree to anything of the kind and stop their debate. Any Senator who will vote for this bill giving the President carte blanche authority, certainly would vote for a bill that will stop them from talking for 2 months. I do not think there will be any trouble. I hope the House will give this consideration, and will bear it in mind, even if it is a proposal that does not come from the Democratic side or from the Republican side.

I hope gentlemen will give this matter serious consideration, because I am convinced it is not so important whether

or not we pass this bill that gives the President dictatorial power as it is to convince the American people that the Congress of the United States will not surrender its power, that the Congress of the United States is going to retain its power; and that is as much as I have to say on the subject.

Mr. DUNN. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. I am sorry, but I have only very little time left. I want to emphasize the importance of this proposal. It is made in friendly consideration of the American people. I do not offer this in criticism of the bill, nor in support of the bill. I offer this as a proposal that will keep control in the hands of Congress and will still provide for a reorganization, and any friend of reorganization and also any friend of the President knows very well that any Congress that has votes enough to pass this type of legislation now before us will have votes enough to accept the recommendation of the President if it is reasonable, and I believe that we can carry out a program. I ask gentlemen to study this amendment between now and tomorrow. I shall offer it at the first opportunity I get, and I ask gentlemen to study it and give it fair consideration, and I believe all will recognize that with the power of the Senate and the House to adopt rules making it a matter of the highest privilege, it will work out to be in the interest of the American people. [Applause.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. MAAS].

Mr. MAAS. Mr. Chairman, we must all admit that the Government structure needs drastic revision and reorganization, but this bill goes beyond that in that it is the beginning of a change in our form of government.

The Congress itself is the source of the authority to establish the various departments and agencies of Government. Congress itself should be the authority for reorganizing and consolidating and eliminating bureaus, and so forth.

To delegate to the Executive the power to eliminate an agency created by Congress may very well be used to defeat the very purpose of the Congress in establishing that agency. The Congress, as the most direct representative of the people, frequently feels it desirable and essential to create an agency in the Government independent of the President and executive departments for the very purpose of reviewing actions of the Executive and his subordinates as part of our system of balances and checks.

To give the President the power to abolish such an agency, even though presumably its functions are only transferred, is obviously unwise in a democracy. It might easily circumvent the whole policy of having a check by Congress upon excesses by Executive bureaucracy.

Executive-controlled bureaucracy is the greatest threat to democracy. There are many features of the bill I do not like, but let me use the case of civil-service administration as an illustration.

We have a standing committee in the House on civil service, of which I am a member. The Civil Service Committee of the House has studied this problem for many years. It has been a continuous process, and that committee now has a bill to extend the civil service, upon which extensive hearings have been held and great consideration has been given to the subject. Your select committee has not had the benefit nor the advantage of this study, which the standing committee has made, and it is an utter impossibility to expect them to deal with such a comprehensive program in a very limited time and with the limited facilities at their hands. Our committee was not consulted, our recommendations have been ignored. We have before our Civil Service Committee now a bill which will actually extend the merit system in Government. I do not believe there is a greater threat to democracy than the patronage system, and the one safeguard against patronage control by one branch of the Government of another branch, is to extend the merit system. We all know the power that the Executive has, any Executive, over a legislative body in controlling legislation, if he can control the patronage upon which the Members of the legislative body depend for their election.

We have heard a great deal about being sold out by telegrams. But what about the black pictures in American history when the will of the people has been defeated by the open barter of legislation through the use of buying and selling votes on legislative bills through dispensing jobs to Senators and Congressmen. We are all familiar with it. This bill does not correct that situation, it does not even strike at it.

We are not half so much in danger of losing our democracy through war nor Communist agitation, nor propaganda as we are in danger of destroying representative government by failing to enact and protect an adequate merit system. This has been the desire of the American people for many years, but it is being destroyed. Instead of correcting the situation we are accentuating it. The provision in the bill in regard to civil service rather than protecting the merit system is giving protection and giving the benefit of legal protection to the perpetuation of the spoils system, the very thing which for years we have been trying to prevent. This bill in that respect sets back 100 years the cause of advancing the democratic processes and leaving the legislative branch free of interference by the Executive. The one hope of making the legislative body free and independent and responsible solely to constituents, is abolition of the spoils system. Let Members of Congress be judged for reelection upon their legislative record rather than upon a political machine which they may build through the use of patronage. The way to stop this is to take patronage out of the hands not only of Congress but of the executive departments.

Mr. GRAY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. MAAS. I yield.

Mr. GRAY of Pennsylvania. What would the gentleman think of a proposal so to amend the Constitution as to prohibit any Member of the legislative body, Senate or House, being appointed to any judicial or Government office during his term of service?

Mr. MAAS. I think it would help very much. I have a bill pending which would make it a felony for a Member of Congress even to recommend anybody for a Federal appointment. [Applause.]

If I am reelected, I intend to reintroduce it in even stronger terms next session.

A one-man civil-service administrator, subservient to the President, is not conducive to impartial administration of the civil-service laws and the protection of Government employees in their civil-service rights. The case of the removal of Arthur T. Morgan, Chairman of the T. V. A., is an illustration of how a President can control such an agency.

The cry is raised that Congress has had the power to have reorganized the bureaus of the Government at any time, and still has done nothing about it. The truth is, Congress has never had the support of the President in a movement to itself reorganize the Government.

The President has never recommended a plan nor program to accomplish the purpose of simplifying the clumsy, top-heavy Government organization. He has only asked authority to permit him to do it himself.

The proper, orderly, democratic way to do this thing is to have the President submit the results of his studies and his plan for reorganizing the Government structure to the Congress and then let us in an orderly way, with the benefit of the specialized knowledge of our various standing committees, study and pass upon the plan, judging each change upon its merits.

Why this rush to continue to delegate our powers?

The essence of democracy is that the direction of Government and the all-important functions of raising the revenues and providing for the expenditures of public funds,

should be in the hands of the legislative agency of the people. If you delegate to the spending agency—the Executive—the control also over raising the funds and virtual unrestricted power to spend the money without restraint, you no longer have democracy.

The Constitution sets up the Congress as the most immediately responsive agency to represent the will of the people. It therefore gave exclusively to the Congress the power to lay taxes and provide for the appropriations of public monies.

Surely, the President has a plan for reorganizing the executive branch of the Government. If he does not have, then he is in no better position than he claims Congress is.

If he does have a plan, why should not he submit the plan to the Congress and let us pass upon his plan?

If Congress continues to delegate its powers and responsibilities the time will surely come, when the Congress, as the direct representatives of the people, will permanently lose those powers. They will lose them, not for themselves, but for the people whom they represent.

This constant delegation of power by the Congress to the President must stop, or our very form of government will be basically changed. If Congress continues to fail to function in its obligations, the right to function will be lost, and 500 years' struggle—from the granting of the Magna Carta—to achieve our democracy will be lost with it.

To persist in this policy of delegating our duties, responsibilities, and powers is to sell the peoples' birthright for a mess of potage.

But I fear the purpose behind this demand to turn this power over to the Executive is more than a mere desire to expedite a job that Congress seems slow at accomplishing.

Taken with the Supreme Court control bill, which was recommended to the Congress at the same time, it takes on a deep significance. Taken still further with the military control bill, which also provides for Congress to delegate all of its powers to the President, the whole trend becomes apparent.

There is a definite relationship between these various proposed measures, all administration supported, and all employing the same method, and all seeking the same purpose, the transference from Congress to the President of the powers of government.

What economy, and efficiency, that might be accomplished, if any, would be temporary, but at price of a permanent loss to the people to control their governmental affairs by direct representation.

Another dangerous provision is the setting up of a bureaucratic control of education. It may be true that this bill in itself does not go all the way in this matter, but it is a sinister step in a program that has been pushed for 20 years. What the proponents of a Federal Department of Education have never been able to accomplish directly, they seek to obtain by indirection in this bill. The ultimate object is and always has been Federal bureaucratic control of the schools of this country.

Congress has refused for 20 years to grant this power to any bureau of the Government.

But the ugly head of federalized educational control rears itself in this bill.

Democracy is certainly gone when bureaucrats and politicians can control the schools of the country and make of them a vast propaganda organization and a powerful political machine. He who controls the school system of the country will control the people themselves.

All of these things taken together clearly show that this bill puts altogether too much power for any one person to wield in the hands of one man. This is too dangerous no matter who that man may be.

This bill should be, and I hope will be, defeated.

[Here the gavel fell.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. GEARHART].

Mr. GEARHART. Mr. Chairman, the uniformly large attendance upon the proceedings of this Committee, the crowded galleries, the thousands upon thousands of letters and telegrams that have been pouring in to the Members of Congress these past few days, attest to the fact that, in the estimation of the country, we have before us today one of the most important proposals that has ever been submitted to the consideration of this body.

In view of the fact that so many people regard this legislation as of the utmost importance, I am shocked, as I know the Nation must be shocked, by the indecent haste which the managers of this bill have availed themselves of in precipitating this little-understood measure upon the floor of the House of Representatives. Why all this haste? Why is it that this bill, which has been pending for over a year in all of its phases, must so suddenly, without preceding hearings nor adequate explanation, be thrust upon our attention?

Why should we be asked to forego the careful consideration of this highly controversial and vigorously protested legislation and to hurl it into conference before the week ends? It is not because we have not the time available. Next week's legislative calendar is clear.

Is it because those who are the friends of this scheme to reorganize the executive branch of the Government are afraid to accord to the people of the United States a chance to be heard; a chance to give expression of their views upon it? Are they afraid to give to the people of this country a sufficient time to exercise their constitutional right to petition the Congress lest the verdict of those we have the honor to represent should be revealed as condemnatory of the sweeping delegation of the legislative prerogative to the Chief Executive which this strangely extraordinary proposal, if translated into law, would accomplish?

Are we being given that which in the common venacular is so often referred to as "the rush act"? Others less friendly to him than I have always tried to be might be constrained to say that the gentleman at the other end of the Avenue, in contemptuous disregard of that small dignity to which we as legislators still lay claim, was trying to apply to the Members of this body the well-known but little-relished "bum's rush." [Laughter.]

Personally, I cannot subscribe to this utterly indefensible method of enacting legislation. Unless generous time is allowed for a thoroughgoing debate of this all-important measure I shall have no other recourse than to vote against it. And I shall vote against it unless the slap-stick, mule-driving tactics of those who are sponsoring this legislative proposal are immediately abandoned in the interest of a full, fair, thoughtful, and complete discussion of all of the subjects with which this measure treats. [Applause.]

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. STACK].

Mr. STACK. Mr. Chairman, a distinguished friend of mine, a colleague from Texas, told me that there is a whispering campaign in the cloakrooms to the effect that the American Federation of Labor has withdrawn its opposition to this bill. I just talked to the American Federation of Labor. They are still against it. They did tell me, however, that Jimmy Roosevelt told the representatives of the railroad brotherhoods that they would not touch the Mediation Board or the Railroad Retirement Board. [Laughter.] In other words, a deal was made with them to get them to come out now in support of this bill; but Jimmy Roosevelt, nice boy that he is, cannot speak for other Presidents that I hope and pray will succeed his illustrious father. The world is looking to America to preserve democracy and let the people, who, after all, are the Government, rule.

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. SHAFER].

Mr. SHAFER of Michigan. Mr. Chairman, I am opposed to this so-called Government reorganization bill. In the very brief time that has been granted me I desire to call the attention of the members of the Committee to the fact that business conditions in my State of Michigan are very bad. We are in a terrible depression and unless the present decline can be checked we will experience far more serious times than we had in 1929 and 1930.

The present conditions and the attitude shown by the President have caused thoughtful citizens, regardless of party affiliations, to become disturbed and apprehensive. Call the present flood of protesting telegrams and letters a result of a conspiracy if you will. You can say they have been "purchased," but I say it is fear caused by the way the President has conducted himself in office. A great many people think he wants to be dictator. You cannot blame them. He certainly is in a peculiar state of mind when he finds it necessary to wake newspaper reporters up at midnight to spread the word that he denies ambitions of dictatorship.

The greatest service President Roosevelt could perform for the American people today would be to instruct his leaders who are attempting to shove this bill down the throats of the Congress and the American people, to suspend efforts to pass the bill at this time. Such an act would do more to restore confidence in the President than anything else that could be done.

If the President insists upon whipping this bill through now he will do untold harm. There is no doubt but that some executive departments need reorganizing, particularly if some economy resulted. Such changes, however, should only come after long deliberation and debate and according to democratic methods.

I sincerely hope this bill will be recommitted in order that this Congress may better consider these fundamental and extraordinary changes at a more favorable time.

Mr. Chairman, I yield back the balance of my time.

Mrs. ROGERS of Massachusetts. Mr. Chairman, I yield myself the balance of my time or so much thereof as I may use.

Mr. Chairman, I believe never in the history of any Congress have the people of our country been more interested in any measure, nor more opposed to any measure. One of the old post-office clerks stated that more mail has come through the post office than ever before in a short period.

Mr. Chairman, today the countries of the world are upset. New forms of government, some very unwelcome, have been adopted in many countries. The people of our country are living in fear today. I speak not as a Republican, not as a Democrat, not as a new dealer; I speak as a Member of Congress, the representative of 300,000 people, the second largest district in the State of Massachusetts.

Mr. Chairman, we in Congress are going to be judged by our vote. We are responsible to our constituents, to the citizens of the United States.

We are not responsible to the President of the United States. Personally I have a high regard for him. He was a classmate of my husband and a friend of long standing. But I owe a duty to the people of my district and to the people of America. [Applause.]

Mr. Chairman, I have not received one single letter endorsing this reorganization bill. The telegrams and the letters that have come to me and other Members of the House show the state of terror that exists in the minds of everyone today. We are in a state of panic, financially and mentally. I believe the passage of the pending bill would tremendously increase this panic.

I am the ranking minority member of the Civil Service Committee as well as the ranking minority member of the World War Veterans' Committee. I have always believed in the merit system and this is one of the principal reasons I am speaking at the present time. Both of these departments will be affected by this bill.

Mr. Chairman, you have always taken a great interest in the Federal employees, just as I have and as have many of our colleagues. We are all together in this fight to save the merit system and there should not be a party dividing line. Do you realize, and I know many of the Members do, that today the Federal employees live in fear, in a terror of losing their jobs? The Boston Lodge 413, American Federation of Government Employees, telegraphed me their opposition to the bill, to mention just one group. If this bill is passed and the country continues in this state of despair, financial and otherwise, your constituents and my constituents will blame us for the condition. They will blame us for wrecking the country. They will not blame the President so much as us, their Representatives. If we give up our power, they will have every right to blame us, because they warned us ahead of time.

Mr. Chairman, when the President stated "the Senate could not be bought by telegrams," he implied that those Senators who voted against the reorganization bill could be bought. The Members have read in their correspondence from their constituents, just as I have in mine, the insinuation that the direct quotation of the President has still further frightened the people. They have always felt they had the right to petition and write their Members of Congress. By that statement they believe the President is trying to take away that right from them and no matter what the President said in his letter written to Congress about not wanting to become a dictator, they believe he will become a dictator if this bill is passed. He certainly will have that power.

Mr. Chairman, I earnestly trust and hope the pending bill will be defeated. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. The gentleman from Ohio [Mr. KNIFFIN] is recognized for 1 hour.

Mr. KNIFFIN. Mr. Chairman, I have asked for this time, but shall not use all of it. I have determined that I shall yield at least 40 minutes to the opponents of this measure and 20 minutes to the proponents.

Mr. Chairman, I now yield 30 minutes to the gentleman from New York [Mr. O'CONNOR].

Mr. O'CONNOR of New York. Mr. Chairman, I may hit that sun on the horizon yet about which I expressed superstitution. I have been trying to get time for days. Naturally I tried to get it in my own right as chairman of the Rules Committee. I had something to do with the creation of this special committee, but it appears that the chairman of the Rules Committee will not be permitted to be recognized for 1 hour in his own right, so I have been begging and borrowing, principally from the minority, the Republican side, the opportunity to speak. So there you are. But I am still young and shall be around here for a long time to come.

After this 1 hour's final debate, undoubtedly a motion to close debate will be made. I believe that motion should be defeated. This House should recess from tonight until Monday, at which time it should again take up general debate on the pending bill. (Applause.)

Mr. Chairman, I detest reading my remarks, but this occasion is so important I hope you will indulge me. There is nothing I enjoy more than the cross-fire of debate, but I trust you will go along with me until I have finished at least part of the statement I desire to make.

Mr. Chairman, rising in opposition to this reorganization bill is not a pleasant duty to me. I trust my action will not be misinterpreted by my close associates in this House as any opposition to them or in opposition to our great Chief Executive. If, in opposing this bill, as I conscientiously do as a patriotic duty, I am in opposition to the wishes of the President, it is the first time I have failed to support his program. And in passing let me say that of all the Democrats in this House, I am the only Democrat, I believe, who so nearly approaches a 100 percent record in support of the President. Let me emphasize that fact in view of statements to the contrary during the past few years in the press and even in Democratic caucus. Let me emphasize that fact at the beginning, because some might thoughtlessly challenge that statement. I can see only one Democrat in this House besides myself who might have that record in support of the President. When I hear Democrats on the floor talking about "Our great leader, we must support him," I recall that only a short time ago they were fighting his program. When I say supporting a "100 percent" program since 1933, I include the votes on prohibition, the bonus, the economy bill, the wage and hour bill, and the vetoes, because it is not a long time ago I was one of only 13 heroic

Democrats who stood with the President on a veto. [Applause.]

Only the other day I stood on the floor of this House fighting for the right of the President to perform his own functions and appoint unimportant officials without the necessity of confirmation by another body.

Now, if there is anybody outside of one man on this side of the House who has a record of so nearly 100 percent support of the President, let him stand in his place, taking into consideration the items I have mentioned. I notice no one stands.

Today I am consistent in opposing any usurpation by the Executive of the functions of Congress, a fight I have been carrying on for years.

My position on this matter of taking up the reorganization bill at this time is well known. On Monday of this week, after the passage of the Senate bill, I made the following statement:

> Now that the Senate has passed its reorganization bill, by a very narrow margin, it will be referred to the Special Committee on Reorganization of the House of Representatives. As reports from that committee have a privileged status, the bill will not come before the Rules Committee for action.
>
> It is my considered personal opinion, however, that the House special committee might well let the bill peacefully slumber in some cobwebbed pigeonhole. This is no time to further inflame our people by such a legislative gesture.
>
> It may well be that our governmental set-up needs overhauling. And it also may well be that such a job can best be done by the Executive, but in these days of vast unemployment, and business in hysterics, it is no time to push this legislation, which has so aroused the people, as a further intrusion of the executive branch on the prerogatives of the legislative body. [Applause.]
>
> Right or wrong, the bill would lend nothing toward the problem of solving unemployment—it might tend in the opposite direction—and surely it has no relation whatsoever to reassuring a much abused business world. [Applause.]
>
> Our people are in no frame of mind at the present moment for the reception of this procedural gesture. After the unemployment situation is solved and business is reassured, there will be plenty of time for this house cleaning. Get the fire out and then clean house.
>
> Psychologically, the bill should be permitted to requiescat in pace.

Happily the Senate bill is "slumbering in that cobwebbed pigeonhole," but the House special reorganization committee seems not to have heard the voice of the people and now comes forward with House bills, which, while they are less offensive than the Senate bill, are equally objectionable to the country.

In my 15 years in Congress I have never heard such protests against any measure. From my district in New York and throughout the country, I have received thousands of letters and telegrams from our citizens mostly letters written in longhand. They are not chain letters. They are not the result of propaganda. I know propaganda when I see it. It goes into that great invention, the waste-paper basket. Surely no one here could say I ever was influenced by propaganda—or even abuse.

I have resisted propaganda. I took this position against this bill before a letter came in to me. Of the hundreds of letters from my district, I know scores of the writers personally. They are good Democrats, organization Democrats, active leaders, and active contributors to our party. Because of their state of mind, it is unimportant whether the facts have been misrepresented to them, as has been stated even by our great President.

The reason for this unparalleled protest is that there has grown up throughout the country in the minds of our people rightly or wrongly the belief that this reorganization bill not only usurps the power of their representative body in Congress, but places too much power in the Executive, tending toward a dictatorship.

I am not afraid of a dictatorship in this country. I believe our great President was sincere when he stated last midnight that he had no desire to be a dictator.

Knowing him as I do from our close personal and political relations, I know he would never entertain such an idea. The fact is, there just hain't never going to be no dictator in this here country [applause], at least while some of us have a voice and two strong hands.

The fact is, nevertheless, that our people are inflamed almost to the point of revolution, and I use my words guardedly. They are inflamed at the thought of the possibilities of this bill. Some letters mention "bloodshed," others, resort to "arms." This is the situation which concerns me. Rightly or wrongly, this is no time to further incense our people, who have gone through 8 years of a depression and who since last fall have suffered a relapse, so that today business and unemployment are back to the low state we found them in when we took office in 1933, and in some respects they are lower than at any point in our entire history. Then you talk about reshuffling bureaus.

The matter of reorganizing our Government is of such minor importance at this moment, compared with the great problems of unemployment and business depression, that it could be well set aside at least until another Congress, which meets next January. We have had this problem for 150 years, yet the administration of this Government has been going on pretty well. We could well be patient and wait a little while longer. To start to clean house now while the house is falling down, without first stopping to rebuild it, does not impress me as very practical, neither does it appeal to our people. [Applause.]

Practical politicians often abandon a project because it does not sit well with the people at the precise moment.

Will someone tell me what a man on First Avenue in my district, out of a job and standing on a street corner, or a little-business man on Second Avenue who has not been able to make ends meet, cares whether the Bureau of Fisheries or the Bureau of Plant Diseases is in the Department of the Interior or the Department of Agriculture? [Applause.]

Instead of taking up this comparatively unimportant reorganization measure, we might well be considering means of solving the unemployment problem and bettering our business conditions. At this moment we could with great profit be considering legislation to authorize the Reconstruction Finance Corporation to be more liberal in its loans to small business. [Applause.] We could be pushing other bills through to completion in order to relieve the business of the country from overburdensome taxes and snooping governmental interference [applause], so that private business might be encouraged and be able and willing to solve the unemployment problem by giving private employment. This is the only solution of our unemployment situation.

Instead, we are attempting to rush through in a comparatively few hours this empty gesture of readjusting bureaus and agencies, and I say in a few hours, because another body took weeks to consider it. What is all this rush about? No one claims this bill would effect any economy or in any way help to balance a lopsided Budget. Undoubtedly it would promote efficiency, that choice word of the salesman, but who cares? Who cares in these times of unemployment and depressed business conditions about mere "efficiency"?

To me the underlying fallacy behind this proposal has been for months, outstanding in the Senate debates and still persists, that our present great Executive will always be President of the United States. When any question was raised in the other body as to whether the powers under this bill would be abused, the answer always was, "You do not think Franklin D. Roosevelt would ever abuse such powers, do you?" And that out of the mouths of Democrats, who yesterday were in a minority and not a majority.

Of course, I am hopeful we are going to have another President after Mr. Roosevelt, and I am hopeful we are going to have another Congress, but some short-sighted Democrats have not looked far enough ahead to that day when possibly the Chief Executive may not be of their own party.

Eleven years of my legislative life have been spent in a minority. I was much happier there. I could do what I wanted, and I could throw all the brickbats I wanted. I did not have to sit back and "take it." But I do not relish the thought of looking forward to the day when I may possibly be again in the minority and the Chief Executive may be

of another party, Farmer-Laborite, Communist, or what not. I am sure the next President is not going to be a Republican.

As a member of that minority party I may desire justice done in the office of what used to be the Comptroller General, responsible solely to Congress, or what used to be a bypartisan Civil Service Commission. Suppose I desire to contact the then czars of these two Departments, who are completely servile to the new Executive, in behalf of a businessman or a civil-service employee who used to be known as a Democrat when that party existed. Does anyone here believe those two czars, completely servile and subordinate to the Chief Executive, are going to pay any attention to a minority Member of this House? That is what I am looking forward to.

In my 15 years in Congress I have never seen any issue which was more important to this country than the one we have before us now, more important as an issue in the minds of the people but the least important of any measure we could possibly take up now for consideration.

I appreciate that the vote against consideration of the measure was not indicative of the sentiments of this House on the merits of the bill. I realize that a change of only 30 of those votes would defeat this measure, and I sincerely hope and believe that change will happen on Monday.

Now, if you eliminate, as many Members will attempt to do by amendments, the outstanding objectionable features of the bill, there is just no bill left. So, to my mind the short and practicable cut is to defeat the entire measure.

Surely the civil service part of the bill will not be acceptable either to those opposed to the system or those who believe in an honest, nonpolitical administration of the civil-service system.

It cannot be, it just cannot be, that this Congress intends to place in the hands of a secretary of public welfare the vast powers and the vast spending and the vast control in this bill, even including the education of our youth. [Applause.]

Surely Congress cannot mean that it would propose to relinquish control over the expenditure of the money which it appropriates. This would be the first step toward a dictator—control of the appropriations and the money of the country.

Why, sure, it is proper, we have an auditor general, but instead of having it so that our Comptroller General can have something to say before the money is spent, under the new proposal we shall only hear what happened after the money is spent, and not even that in every instance.

Who suggested all this change? Why? Did anybody elected to public office originate it? Not that I know.

Again, why should we deliberately provide that it shall require a two-thirds vote of both Houses of Congress to disagree with the President's shuffling of the agencies of the Government? Is it because the President boldly opposed the concurrent resolution method, as he did in his midnight statement? You heard me talk here the other day about concurrent resolutions and House joint resolutions, and I regret to this moment the action taken here the other day, and I submit to you now the question I had in mind on that day. Suppose by any chance the President should not sign the House joint resolution for an investigation of the T. V. A., an anomaly never heard of before. Then Congress might say, "We will pass a concurrent resolution anyway," and the first witness subpenaed before that joint committee would contest the power of Congress to pass such a resolution of inquiry, after the President had failed to approve what Congress had gratuitously submitted to him.

On this concurrent resolution proposition, let me ask you from my heart, What has given rise to this inferiority complex that Congress itself cannot reorganize the Government? When did it fail in any attempt to reorganize the Government? I have seen it stated, even by the President and others, that six or seven times—I have forgotten the number—Congress has failed to do the job. When? Not in my time. Why cannot 435 men, elected by the people, do the job as well as one man? Why should Congress assume such an inferiority complex?

Mr. BULWINKLE. Mr. Chairman, will the gentleman yield?

Mr. O'CONNOR of New York. I yield to the distinguished gentleman for a brief question.

Mr. BULWINKLE. I was very much interested in what the gentleman was saying about a reorganization, and I am wondering why the gentleman voted for the reorganization on August 13, which is in title I of this bill today?

Mr. O'CONNOR of New York. Oh, I expected that question, and I believe, of course, that a North Carolinian colleague of the gentleman stood up there prepared to ask me that question, but I did not yield to him. Well, I suppose I voted as I did in a lackadaisical manner in which I have often so voted, believing it was the thing to do, "going along," as the boys say. I have been an organization man all my life, but this here bill is just too much to swallow. [Laughter and applause.]

Mr. STACK. Mr. Chairman, will the gentleman yield?

Mr. O'CONNOR of New York. I gladly yield to the distinguished Democrat from Philadelphia for a brief question.

Mr. STACK. Along the line of the last question and answer, I have recollections of some Congressmen who divorced their wives, but they certainly thought a lot of them when they first married them. [Laughter.]

Mr. O'CONNOR of New York. That sounds to me like an exact parable.

Mr. FADDIS. Mr. Chairman, will the gentleman yield?

Mr. O'CONNOR of New York. I gladly yield to the distinguished gentleman from Pennsylvania for a brief question.

Mr. FADDIS. Along the line of the question of the gentleman from North Carolina [Mr. BULWINKLE] I ask the gentleman if the Congress approved this matter referred to, why is it in this bill today?

Mr. O'CONNOR of New York. I really do not know. I tried hard to find out yesterday.

Mr. Chairman, I have asked these questions because I have never been more earnest in my life. The position I am taking now is not a happy one. If it is contrary to some of my close associates, I regret it. My action is considerate and of long standing, long before any letters or telegrams came to me. No one has ever yet accused me of being a demagog—in fact, quite the opposite. What I do today is entirely of my own choice. I have no strange political bedfellows, as some of the newspapers state. [Applause and laughter.] I fully realize the step that I am taking with all the sincerity of my heart. This is the only way that I can go and that path I must follow, though I walk barefoot and alone. [Applause.]

Now let us analyze this House bill on reorganization.

H. R. 8202, the reorganization bill, added as a House committee amendment to the Senate bill, delegates to the President the exceedingly broad legislative power, after his own investigation and by his own determination, to regroup, consolidate, transfer, or abolish any executive agencies or agency or the functions of them, except the Interstate Commerce Commission, the Federal Trade Commission, the Securities and Exchange Commission, the Federal Communications Commission, the National Labor Relations Board, the National Bituminous Coal Commission, the United States Maritime Commission, and the United States Tariff Commission, all of which are quasi-legislative or quasi-judicial agencies; and for some unexplained reason the exemptions have been written to include the Coast Guard of the Treasury Department and the Engineer Corps of the Army.

Every other agency of the executive branch of the Government comes within the scope of whatever reorganization of agencies and functions may be undertaken under terms of the bill. The terms of the bill may be applied in a manner to expand, contract, abolish, or nullify the will of Congress

as expressed in the policies it has formulated and laid down in functions prescribed for the execution of the executive agencies.

Within the 2-year period in which this bill is to be operative the only way the Congress can recapture the powers delegated is by act of Congress and that is subject to Presidential veto which may reasonably be expected if the act of Congress has for its purpose the undoing of the purposes of an Executive order. In such an event passage of this bill will mean the abandonment of majority rule. When similar powers were conferred upon Mr. Hoover; and in 1933 upon Mr. Roosevelt, it was declared that an emergency existed and "it is imperative to reduce drastically Government expenses." Since there is no intention of reducing expenses under the present bill that language has been struck out. It is to be noted that title I of this bill imposes no limit on the number of changes that can be made to any or all agencies by Executive order.

It should be understood further that the provision that an Executive order issued under title I of this bill shall not be effective until 60 calendar days after transmission to Congress, means no more than a notification that an Executive order is about to become effective, because if Congress desires to stop an Executive order, an act of Congress will be necessary, and in all probability a two-thirds vote of both Houses will be subsequently required to pass such an act over Presidential veto.

It should be noted also that title I of this bill provides that—

> The President's order directing any transfer, consolidation, or elimination under the provisions of this title shall also make provision for the transfer or other disposition of the records, property (including office equipment), and personnel affected by such transfer, consolidation, or elimination. In any case of a transfer or consolidation under the provisions of this title, the President's order shall also make provision for the transfer of such unexpended balances of appropriations available for use in connection with the function or agency transferred or consolidated as he deems necessary by reason of the transfer or consolidation for use in connection with the transferred or consolidated function or for the use of the agency to which the transfer is made or of the agency resulting from such consolidation.

Executive power to shuffle and reshuffle personnel, property, and appropriations under this language, along with the power to transfer and retransfer agencies and functions, if uncurbed, might conceivably become tantamount to governmental operation under lump-sum appropriations to be disbursed at the will of the Executive.

There is nothing in this title to prevent the Executive from increasing, by Executive order, the number of agencies of the Government.

Title III of this bill establishes a department of public welfare, with a Cabinet member as its head, to promote the public health, safety, and sanitation; the protection of the consumer; the cause of education; the relief of the unemployment and of the hardship and suffering caused thereby; the relief of the needy and distressed; the assistance and benefits of the aged and the relief and vocational rehabilitation of the physically disabled; and in general to coordinate and promote public health, education, and welfare activities.

It is reasonable to suppose that the new Cabinet member chosen to head this new department—which has possibilities of becoming the greatest and largest of them all—will be qualified in only one of the functions of the department. It may be reasonably supposed that he will be either a social worker, or a public-health expert, or an educator. Thus it would be natural to expect that the other functions, those with which he is not familiar, might become submerged under those of his first love.

It is obvious that these functions, established by this bill as permanent services of the Federal Government, embrace many of those which are now declared by law to be temporary, enacted to meet an emergency. Practically all could be transferred to this department, and thus, in effect, this title makes Federal relief a permanent function, despite the fact that Congress has not up to now determined what its permanent policy with regard to relief is to be.

It is obvious that the functions set out for this department might embrace at least some of those now administered by the Agriculture Department, the Labor Department, the Interior Department, the Treasury Department, the Works Progress Administration, the Veterans' Administration, the Social Security Board, and many others. At some future date, should this department be headed by a man interested primarily in education, he would undoubtedly bring pressure to bear upon the Congress for appropriations for public education or upon the President for the transfer of other departmental funds for that purpose.

This new department will increase the cost of Government.

The issue involved in H. R. 8276 is whether Congress shall relinquish control over expenditures of the Federal Government, before they are made to the executive, or spending, branch of the Government.

In effect this bill reconstitutes the General Accounting Office as an office of an independent executive comptroller; establishes an auditor general who, as an agent of Congress, is to audit public accounts, after the money is spent with no authority but then to report to Congress; and provides that the forms, methods, and procedure of bookkeeping and accounting shall be prescribed and supervised by the Secretary of the Treasury.

Thus, it is seen this bill splits responsibility for fiscal affairs of the Government into three parts.

Among the other functions of the new independent executive comptroller general would be to determine the availability of appropriations made by Congress, but his decision would not be binding upon the disbursing officers of the spending agencies. Any appeal from his decision must be taken to the Attorney General, another executive officer, who himself presides over an executive department which itself is quite a spending agency.

Aside from the fundamental principle involved—whether the legislative branch of the Government which raises all funds and appropriates all money should control expenditures, or whether the executive or spending branch of the Government should exercise that control—the details of this bill make it all impracticable, cumbersome, and possibly unworkable.

For instance, the language of subsection (b) under section 403 of title IV should be considered:

> The Auditor General shall promptly make an audit of all expenditures of the Government after payment and prior to settlement and adjustment by the General Accounting Office of the accountable officers' accounts containing such expenditures, which audit shall be conducted as nearly as practicable in the vicinity of disbursing offices of the United States located in the District of Columbia and elsewhere. The Auditor General shall promptly transmit to the accountable officer and the head of the executive department or independent establishment concerned and the Comptroller General the findings made by him in such an audit.

That means that everywhere the Government has a disbursing officer—and there are hundreds of them scattered all over the United States—the auditor general must have a man sitting across the desk from him to follow up his every spending act. And then whatever is found is to be discovered only after the money is paid out and gone.

Before passing upon this bill the Congress should note particularly subsection (b) under section 404 of title IV, which says:

> The Auditor General shall examine all copies of the certificates of settlement furnished him by the Comptroller General under subsection (a) of this section, and the Auditor General shall promptly notify the Comptroller General of, and report to Congress, all accounts and claims deemed by the Auditor General to have been improperly settled and adjusted by the General Accounting Office: *Provided*, That no report shall be made to Congress with respect to any such disagreement between the Auditor General and the General Accounting Office until 30 days after the Comptroller General has been notified of such disagreement: *Provided further*, That no report of any such disagreement shall be made to Congress if the General Accounting Office revises its settlement and adjustment to accord with the views of the Auditor General: *Provided further*, That no report of any such disagreement need be made if the Auditor General deems that the question involved therein has previously been reported by him to Congress.

It has been heralded abroad that H. R. 8277 has for its purpose the extension of the civil service and merit system upward, downward, and outward.

This bill abolishes the Civil Service Commission of three members with mandatory minority representation. In the place of this Commission there would be substituted a one-man administrator. It is not reasonable to expect one administrator can represent more than one political party, more than one sex, more than one labor viewpoint, or more than one administrative outlook. This administrator would be appointed by the titular head of a political party.

This bill provides for a civil-service commission, but it is a mere gesture. It has no authority, for it can only recommend what it finds in as few as four meetings a year. On this phase the House bill and the Senate bill are about the same.

It is entirely possible that whatever good points this bill may have may be nullified and canceled completely by section 301 of title III which provides that the President after his own examination and on his own initiative may by Executive order—

> Except from or cover into the classified civil service any office or position within an agency of the Government, except an office or position, appointment to which is authorized to be made by the President, by and with the advice and consent of the Senate.

The Senate struck out the words "except from or."

It is submitted that authority granted under that language may or may not be used toward the extension of the civil service and merit system upward, downward, and outward.

The foregoing are some of the high points of the bill. There are others of equal importance—all are of such fundamental importance, going to the very form of our Government, that the bill should be defeated.

Mr. KNIFFIN. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. MEAD].

Mr. MEAD. Mr. Chairman, there will be nothing dramatic in this oration. I merely wish to carry out certain promises I made yesterday. But, after listening to the last speaker from my State, particularly after he mentioned that the man on First Avenue out of a job does not give a rap about this bill; that the little fellow on Second Avenue does not even know that the bill is here and does not care anything about it; and that we should set aside this unimportant bill and take up something important, I cannot see why we should get so excited about it. This really is much ado about nothing.

I cannot link those preliminary statements with the conclusion that we are going to set up a powerful dictator who may rise up and bring about a revolution. How do they sound in the same speech? I thought I would like to repeat them myself to see if they really do make sense, and they do not. [Applause.] I particularly appreciate applause coming from the Democratic side, and I hope some day to make an oration that will win acclaim even from my good friends on the Republican side.

Yesterday I said that as the merits of this legislation became more widely known and the recipients began to understand its benefits they would show their reaction by bringing to the House the enlightment and encouragement of their opinion.

A day or so ago it was stated that the railroad brotherhoods were opposed to this bill, and that the 21 standard unions on the railroads were fighting the bill. Read Labor and you will find that yesterday the 21 grand chiefs held a meeting, and today this statement is given wide publicity:

> Rail unions are not against the reorganization bill.

I have here a two-page letter from the National Federation of Federal Employees, which explains in detail all the benefits of this legislation.

Mr. ROBSION of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. MEAD. I would like to complete my statement first. This letter from the national president in behalf of the National Federation of Federal Employees states that they are satisfied and contented, and that they have studied the civil-service features and are for the bill.

Here is a telegram from the national president of postal supervisors who states unqualifiedly that he and his organization, after a study of the bill, are for it. The telegram is dated only yesterday.

I have here a letter from those we want to help, from 32,000 members of the nonclassified Federal employees, who will be benefited by the bill, covered into the merit system, and given the benefits of the Classification Act and the retirement system. They plead with us through the aid of their organization that we vote for the bill.

Mr. HOFFMAN. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HOFFMAN. Under section 357 of Jefferson's Manual and under subdivision 6 of rule XIV, being section 766 of House Rules and Manual, the gentleman from New York is out of order, having spoken yesterday, when time was yielded to him, in speaking again today, on the same bill when time was yielded to him.

Mr. MEAD. Mr. Chairman, I do not care to be heard on the point of order. I am satisfied to take the opinion of the Chair.

The CHAIRMAN. The Chair overrules the point of order.

Mr. MEAD. I have a letter from Jacob Baker, of the United Federal Workers of America, recommending the legislation. Here also is a telegram dated March 31 from John J. Barrett, president of the Post Office Clerks, approving the legislation. I mentioned yesterday that an organization of the American Federation of Government Employees has recommended the legislation; I have another telegram today.

I merely rose to explain that, insofar as the civil-service feature of the bill is concerned, we are extending and expanding the civil service upward and outward. As we do that we cover these employees under the Classification Act, and as they come under the Classification Act they are given the benefit of the retirement act. We are making more progress in this bill than the most enthusiastic friends of civil service anticipated in 10 years. Everyone who believes in the civil service, who is anxious to build up the merit system, who would like to see these employees given the benefits of the retirement act, should join with us in the passage of this bill.

I ask you, my friends, in all fairness not to consider statements which are irrelevant, which do not pertain to the legislation, which are attempts to scare, and which are aimed particularly at various elements not even included in the bill.

I voted against legislation of this nature in the closing days of the Hoover administration because, while it gave that President more power to consolidate and merge bureaus than we give this President, it had in it severe cuts for the veterans and severe cuts for the Federal employees. Members who are on the floor of the House today pleading with you to kill this bill were on the floor of the House in those days asking you to vote for that bill. [Applause.] My devotion to the Federal employees and to the veterans of this country made it necessary for me to fight that bill, but by the same token makes it necessary for me to ask you to vote for this bill.

I respect and appreciate the messages which have come from the people relative to this legislation, and especially from those to be affected by its enactment. [Applause.]

Mr. Chairman, I yield back the balance of my time.

Mr. KNIFFIN. Mr. Chairman, I yield 10 minutes to the gentleman from Georgia [Mr. RAMSPECK].

Mr. RAMSPECK. Mr. Chairman, it is with regret that I find myself in disagreement with my friend, the gentleman from New York [Mr. MEAD] in regard to the civil-service provisions of the pending bill. He is one of the finest friends I have in the House and his interest in the Federal employees and in working people generally is not surpassed by anyone here.

Our difference is one of opinion and I accord to him a belief in his sincerity and every right to his contrary view.

My opposition extends only to that part of the bill on civil service which proposes to abolish the bipartisan three member Commission and to substitute therefore a single administrator.

The present Commission performs certain duties delegated to it by the Congress which I think should not be lodged in one person. It formulates the rules which the President promulgates. It hears appeals from applicants when they feel that the examiners have not given them correct ratings. It directs the policies of the various divisions within the staff of the Commission.

Under the Classification Act the Commission hears appeals from decisions of the classification division. These appeals come from administrative officers and from employees and involve matters of salary. In the same manner salaries for newly created positions are fixed.

The rights and privileges of employees under the Retirement Act are adjudicated by the Commission.

There is no appeal from the decision of the Commission in these vital matters. The Commission is the court of final resort. Thus the rights of the Government and of the employees under the Civil Service Act, the Classification Act, and under the retirement legislation rest in the hands of this bipartisan Commission of three.

Would you advocate that our Supreme Court be composed of a single judge? Would you abolish our circuit courts of appeals and substitute one judge? That is what the pending bill proposes when it substitutes a single administrator for the Commission insofar as the jurisdiction of the present Commission is concerned.

The present Commission sits en banc for the consideration of the matters to which I have referred. These matters are of great interest and concern to the thousands of applicants and employees.

I believe that questions of broad policy should go to a board and not to a single person. This proposal would let a single person control the actions of many administrative officers in regard to appointments and salaries. One person is much more apt to become arbitrary and high-handed than is a Commission.

The proper functioning of a merit system depends upon a sustained favorable public opinion. There must be public confidence in its integrity. A single administrator would create at least suspicion of partisianship which would result in loss of confidence.

The single administrator would necessarily belong to some political party or to none. He would be suspected of being partial to the party which appointed him and the minority would have no confidence in his decisions.

He would be from one section of the country, and it would be difficult for him to escape the charge of favoritism. He might not have sufficient understanding of the other sections of this great country.

The single administrator would be a man or a woman. At this time both men and women are represented on the Commission. With the increasing activity of women in politics and government it seems important to consider this fact.

This administrator must be of one religious faith, or of none. No doubt this would arouse questions which are not so apt to arise under the Commission.

A single administrator might become antagonistic toward some organization such as a labor union, a veterans' organization, or one interested in civil-service matters. If the representative of such an organization became unwelcome in his office its interests would suffer. With a commission the representative could contact another member.

In the past some Civil Service Commissioners have had hobbies in regard to the type of examinations to be given or the requirements to be imposed. This has been curbed by the judgment of the two other members, but with one person in charge, if he was given to hobbies, there would be no check.

There are those in our country who believe that no one should be permitted to take a civil-service examination unless such applicant holds a college degree. If we should get a single administrator with such ideas it would, I am afraid, result in arousing great opposition to civil service. I am personally opposed to any plan to deny applicants without college degrees the right to compete for Government jobs. Of course special training is necessary in professional and technical positions, but experience should be permitted to be counted in lieu of a college degree wherever practical.

The gentleman from New York [Mr. MEAD] referred to the States that have adopted the one-administrator plan. They have a problem so small in comparison with the Federal Government that I hardly think it gives us any indication of what the result might be. Maryland, for example, with only a few thousand employees, has this one-person system. It worked satisfactorily during the long service of the late Governor Ritchie, but since the Republicans came into power I understand it has not been so satisfactory and that the previous administrator has been removed.

A single administrator in Australia, I am told, wrecked the civil service of that country. He was replaced with a board of three.

The one administrator would be subject to great political pressure. He could not fall back upon the support of anyone. Under the Commission, each member has the support of two others and the majority members know that if they give way to party pressure the minority member will let the world know.

The pending plan lays great stress upon the advisory board of seven which it creates. In my opinion the meetings of this board would be little more than a social gathering to hear a report from the administrator.

Unless the advisory board is given an independent force both in Washington and in the field, with an adequate staff of competent investigators, its part-time members cannot get much information regarding the 800,000 Federal employees who are scattered through 48 States and in foreign places. Even with a large force such as I have suggested, I think the value of this board would be very small. It would be difficult for its members to have a real understanding of the personnel problem of our Nation, the largest such problem in the world.

It seems to me, after months of earnest consideration of this matter, that to place the welfare of 800,000 employees under 1 man; to place the taxpayers interest in a pay roll of more than a billion dollars at the mercy of 1 person, is asking too much. I find myself unable to follow this suggestion. Therefore, at the proper time I shall offer an amendment to strike out the provisions abolishing the Commission and creating the administrator. If you agree with me I shall appreciate your support.

Mr. ALLEN of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. RAMSPECK. I yield.

Mr. ALLEN of Pennsylvania. Will the gentleman inform the House if he, as chairman of the Civil Service Committee of the House of Representatives, was consulted when the civil-service provisions were written into this bill?

Mr. RAMSPECK. No; I have never been consulted about it either before the plan was sent to Congress or until the Reorganization Committee had practically finished its bill. At that time, as I recall it, the gentleman from Missouri suggested that I confer with the gentleman from New York [Mr. MEAD]; but the Reorganization Committee appointed by the President never conferred with me nor, so far as I know, with any member of the Civil Service Committee of the House or of the Senate, or with the Civil Service Commission.

Mr. ALLEN of Pennsylvania. Mr. Chairman, will the gentleman yield further?

Mr. RAMSPECK. I yield.

Mr. ALLEN of Pennsylvania. So far as the gentleman knows, was any individual conversant with civil-service laws and regulations the author of these provisions?

Mr. RAMSPECK. No; I think not. As a matter of fact, I think the author was a very fine young gentleman whose experience was limited to about 2 years in one of the non-civil-service agencies of the administration.

Mr. RANDOLPH. Mr. Chairman, will the gentleman yield?

Mr. RAMSPECK. I yield.

Mr. RANDOLPH. The present Chairman of the Civil Service Commission, a Democrat, is against this, is he not?

Mr. RAMSPECK. Yes.

Mr. RANDOLPH. Do we not have sufficient power in the Civil Service Commission now to accomplish these results if we would spend more money? Is it not a fact that we do not need any innovation?

Mr. RAMSPECK. I think the present Commission could have done everything that it is proposed that the administrator should do if Congress had given them the power to do it and the money to carry it out. [Applause.]

[Here the gavel fell.]

Mr. KNIFFIN. Mr. Chairman, I yield the remainder of my time to the distinguished majority leader, the gentleman from Texas [Mr. RAYBURN].

Mr. RAYBURN. Mr. Chairman, I never take the floor in debate unless I feel very strongly and very earnestly on the matters under consideration. I presume that if there is a man who ever sat in this Chamber as a Member who knows something about standing up against the impact of propaganda, that man is I. I remember in the spring of 1935, after disclosures in certain fields of utility operation that literally shocked this Nation, a measure was proposed to bring about some form and character of decency and efficiency in that great industry. I remember one Member from the State of New York came into my office one morning and said: "Let us vote on this bill and get it out of the way, or I am going to have to move out of my office. I received 15,000 telegrams this morning. From one town in Pennsylvania telegrams came in by the bushel.

Twelve thousand came from one city in that State. This shook the nerves of the Representatives from the State of Pennsylvania. But during an investigation following the passage of that bill it was found that one representative of a utility company had gone to that city, taken the telephone book and signed the name of every subscriber in that telephone book to a telegram to Members of Congress protesting against the passage of that bill.

To show you the character of propaganda that comes here, and it would be well sometimes to look into the authenticity feature, the gentleman from Pennsylvania, Mr. DALY, received the following telegram:

> Reorganization bill causing trouble in twenty-eighth ward. Vote "no."
>
> E. HAGERTY.

Now, E. Hagerty is an important man up there because he is a member of the legislature and the leader of ward 28. The gentleman from Pennsylvania [Mr. DALY] was a little suspicious about that matter; so he sent Mr. Hagerty the following telegram:

> Received telegram apparently signed by you respecting my vote on reorganization bill. Did you sign it?

Mr. Hagerty sent Mr. Daly the following telegram:

> Answering your telegram, I have sent no telegram, either for or against the reorganization bill.

I have not received letters or telegrams from the district I represent. Do you know why telegrams are not coming from that district? It is because those great, plain, country farmers down in the Fourth Congressional District of Texas have faith and confidence in the man who occupies the White House at the other end of the Avenue. [Applause.] They are not afraid for me to give him the same power that I and the Republicans, as well as a vast majority of the Democrats, gave President Hoover.

Why this sudden change? Why this propaganda? Why did it not come in here last August when the meat of the present bill was pending before the House for consideration? One gentleman said here that he feared some tyrant would occupy the White House one of these days and exercise the provisions of this bill in such fashion that it may be dictatorial and oppressive to the people. Allow me to call your attention to the fact that the reorganization provisions of this bill will expire before Mr. Roosevelt, the present Democratic President, goes out of the White House. So we need have no fear as to what a dictatorial individual may do in years to come under the pending bill, unless it is revised.

The question has been asked, Why does not the Congress reorganize the Government instead of turning this over to the Executive? Why does not the Congress perform all the functions of the Interstate Commerce Commission? Because the Interstate Commerce Commission has not a function and does not perform a function that the Congress does not have the power to delegate to that body. Take each and every arm of Congress represented by a board or commission in this Government, if Congress had the time, the expert information, and the knowledge to do it, the Congress could perform the function of every board and every commission of this Government because it has the power or it could not have delegated that power to these commissions and boards.

Can you imagine 435 intelligent men and women sitting here trying to fix millions of rates on some 250,000 miles of railroads in this country? What would we do with hours of service? Why, we cannot even pass a wage and hour bill, much less administer one.

Mr. Chairman, usually I appeal to those on the Republican side, but that would be a futile thing today. They have seized upon this thing as a great political issue and they are going to stand solidly against giving the present President of the United States this power and authority.

We accept that as the issue or one of the many issues that will come up for consideration in the congressional campaign of 1938. It is a political issue made so by a handful of Republicans that the people left in the House of Representatives after the election of 1936. If they keep on acting as they have been in the past, and I am sorry to say with the help of some of our good Democratic brethren, when they hold their caucus in January 1939 it will not require a room bigger than a telephone booth to hold it in. [Applause.]

There has been some talk about various measures involving reorganization. Something has been said about our quitting this thing and giving consideration to something that will better serve the country. Something was said to the effect that the common man had no interest in this legislation, and then telegrams and letters have been quoted from these same common people, stating it might bring about revolution or it might bring about bloodshed. It is most remarkable to me that these plain, common people, and, as Lincoln said, "God must have loved them because he made so many of them," if they care nothing about this character of legislation, then why will the mob begin to march if we happen to give this authority to the present President of the United States? [Applause.]

Mr. Chairman, I appeal to my Democratic colleagues only. There is no use appealing to those over on my left. Let us not by our votes on this bill allow the country to interpret that we have cast a vote of lack of confidence in the great leader of our party. [Applause.]

Something has been said here that even though they walk on fire they walk alone. May I say that as long as that great humanitarian, as long as that great statesman, as long as that man who in season and out is trying to bring

relief to the struggling American citizen is our leader I am going to walk with him if I must walk alone. [Applause.]

Mr. COCHRAN. Mr. Chairman, I move that the Committee do now rise.

Mr. SNELL. Mr. Chairman, I ask recognition.

The CHAIRMAN (Mr. MCCORMACK). The question is on the motion of the gentleman from Missouri that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MCCORMACK, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (S. 3331) to provide for reorganizing agencies of the Government, extending the classified civil service, establishing a general auditing office and a department of welfare, and for other purposes, had come to no resolution thereon.

Mr. COCHRAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 3331; pending that, I move that general debate in the Committee of the Whole House on the state of the Union on the bill (S. 3331) do now close, and on that motion I move the previous question.

Mr. O'CONNOR of New York. Mr. Speaker, I ask recognition.

Mr. COCHRAN. Mr. Speaker, on that motion I have moved the previous question.

Mr. O'CONNOR of New York. Mr. Speaker, I asked recognition before the previous question was moved.

The SPEAKER. The gentleman from Missouri moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 3331; pending that, the gentleman moves that general debate in the Committee of the Whole House on the state of the Union on the bill S. 3331 do now close, and on that motion he moves the previous question.

Mr. O'CONNOR of New York. Mr. Speaker, before the gentleman moved the previous question I asked recognition.

The SPEAKER. The gentleman from Missouri moved the previous question.

Mr. O'CONNOR of New York. I asked recognition, Mr. Speaker, before the gentleman moved the previous question.

The SPEAKER. The motion for the previous question takes precedence over any other motion.

Mr. O'CONNOR of New York. Mr. Speaker, I ask recognition under the 40-minute rule. It is well recognized in the House that there are 40 minutes of debate on a motion even under the previous question.

The SPEAKER. The Chair will read from a precedent directly involved on this proposition, Cannon's Precedents, section 2555, volume 8:

> When the previous question is ordered on the motion to close debate, the rule providing for 40-minute debate on propositions on which the previous question has been ordered without prior debate does not apply, and no debate is in order.

Mr. O'CONNOR of New York. Mr. Speaker, the previous question has not been ordered. May I suggest to the distinguished Speaker that he read the rule of the House as to the 40 minutes of debate before the previous question is ordered?

The SPEAKER. Under the general rules of the House the previous question is always a privileged motion. The gentleman from Missiouri has exercised his right to move the previous question.

The question is on ordering the previous question on the motion of the gentleman from Missouri [Mr. COCHRAN] to close debate.

The question was taken; and on a division (demanded by Mr. SNELL) there were—ayes 137, noes 105.

Mr. SNELL. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 149, nays 191, not voting 89, as follows:

[Roll No. 51]

YEAS—149

Aleshire	Farley	Kirwan	Poage
Allen, Del.	Fernandez	Kitchens	Quinn
Amlie	Fitzgerald	Kniffin	Ramsay
Arnold	Fitzpatrick	Kopplemann	Rayburn
Barden	Flannery	Lea	Richards
Barry	Forand	Leavy	Rigney
Binderup	Ford, Calif.	Lesinski	Robinson, Utah
Boland, Pa.	Ford, Miss.	McCormack	Romjue
Boren	Fuller	McFarlane	Sacks
Boyer	Fulmer	McGehee	Schulte
Bradley	Garrett	McGranery	Scott
Brown	Gavagan	McGrath	Sheppard
Bulwinkle	Goldsborough	McReynolds	Sirovich
Byrne	Greenwood	Magnuson	Smith, W. Va.
Cannon, Mo.	Gregory	Mahon, S. C.	Snyder, Pa.
Celler	Griffith	Mahon, Tex.	Somers, N. Y.
Chandler	Hamilton	Maloney	South
Citron	Harlan	Mansfield	Swope
Clark, N. C.	Harrington	Martin, Colo.	Tarver
Cochran	Hart	Massingale	Taylor, S. C.
Coffee, Wash.	Havenner	Maverick	Thom
Colmer	Hendricks	Mead	Thomas, Tex.
Cooley	Hennings	Mills	Thomason, Tex.
Cooper	Hildebrandt	Mitchell, Ill.	Tolan
Creal	Hill	Mouton	Turner
Cullen	Hobbs	Murdock, Utah	Vincent, B. M.
Curley	Honeyman	Nelson	Vinson, Fred M.
Daly	Houston	Norton	Voorhis
Delaney	Izac	O'Connell, Mont.	Wallgren
DeMuth	Jacobsen	O'Connell, R. I.	Walter
DeRouen	Johnson, Luther A.	O'Day	Warren
Dies	Johnson, Lyndon	O'Toole	Wearin
Dingell	Johnson, Okla.	Pace	Whittington
Dockweiler	Jones	Patman	Williams
Dorsey	Kee	Patterson	Woodrum
Doxey	Kelly, N. Y.	Pearson	
Dunn	Keogh	Peterson, Fla.	
Eicher	Kerr	Pierce	

NAYS—191

Allen, Ill.	Drew, Pa.	Lamneck	Robertson
Allen, Pa.	Driver	Lanham	Robsion, Ky.
Anderson, Mo.	Eaton	Lemke	Rockefeller
Andresen, Minn.	Eberharter	Lewis, Colo.	Rogers, Mass.
Andrews	Eckert	Lord	Rogers, Okla.
Arends	Edmiston	Luce	Rutherford
Ashbrook	Elliott	Luckey, Nebr.	Ryan
Atkinson	Engel	Ludlow	Sadowski
Bacon	Englebright	Luecke, Mich.	Satterfield
Barton	Evans	McClellan	Sauthoff
Bates	Faddis	McGroarty	Schaefer, Ill.
Beiter	Ferguson	McLaughlin	Schneider, Wis.
Bell	Fleger	McLean	Seger
Bernard	Fletcher	McMillan	Shafer, Mich.
Bigelow	Frey, Pa.	Maas	Shanley
Bloom	Gamble, N. Y.	Mapes	Short
Boileau	Gambrill, Md.	Martin, Mass.	Simpson
Brewster	Gearhart	Mason	Smith, Conn.
Brooks	Gehrmann	May	Smith, Maine
Buckler, Minn.	Gifford	Meeks	Smith, Va.
Burch	Gingery	Michener	Snell
Burdick	Gray, Ind.	Moser, Pa.	Spence
Cannon, Wis.	Gray, Pa.	Mosier, Ohio	Stack
Carlson	Greever	Mott	Starnes
Carter	Griswold	Murdock, Ariz.	Stefan
Case, S. Dak.	Guyer	Nichols	Sumners, Tex.
Chapman	Gwynne	O'Brien, Mich.	Sutphin
Church	Halleck	O'Connor, N. Y.	Sweeney
Clark, Idaho	Hancock, N. Y.	O'Malley	Taber
Clason	Hartley	Palmisano	Terry
Claypool	Healey	Parsons	Thomas, N. J.
Coffee, Nebr.	Hoffman	Patton	Thurston
Cole, N. Y.	Holmes	Peterson, Ga.	Tinkham
Connery	Hope	Pettengill	Tobey
Costello	Hull	Pfeifer	Towey
Cox	Hunter	Phillips	Transue
Cravens	Imhoff	Plumley	Treadway
Crawford	Jarrett	Polk	Umstead
Crosser	Jenkins, Ohio	Powers	Wadsworth
Crowther	Johnson, Minn.	Rabaut	Wene
Culkin	Johnson, W. Va.	Ramspeck	West
Dempsey	Kennedy, Md.	Randolph	White, Ohio
Dirksen	Kinzer	Reece, Tenn.	Wigglesworth
Disney	Kleberg	Reed, Ill.	Wolcott
Ditter	Knutson	Reed, N. Y.	Wolfenden
Dixon	Kvale	Rees, Kans.	Wolverton
Dondero	Lambertson	Reilly	Woodruff
Dowell	Lambeth	Rich	

NOT VOTING—89

Allen, La.	Caldwell	Crowe	Flaherty
Beam	Cartwright	Cummings	Flannagan
Biermann	Casey, Mass.	Deen	Fries, Ill.
Bland	Champion	Dickstein	Gasque
Boehne	Cluett	Doughton	Gilchrist
Boykin	Colden	Douglas	Gildea
Boylan, N. Y.	Cole, Md.	Drewry, Va.	Green
Buck	Collins	Duncan	Haines
Buckley, N. Y.	Crosby	Fish	Hancock, N. C.

Harter	Lucas	Rankin	Tiegan
Hook	McAndrews	Sabath	Thompson, Ill.
Jarman	McKeough	Sanders	Vinson, Ga.
Jenckes, Ind.	McSweeney	Schuetz	Weaver
Jenks, N. H.	Merritt	Scrugham	Welch
Keller	Mitchell, Tenn.	Secrest	Whelchel
Kelly, Ill.	O'Brien, Ill.	Shannon	White, Idaho
Kennedy, N. Y.	O'Connor, Mont.	Smith, Okla.	Wilcox
Kocialkowski	O'Leary	Smith, Wash.	Withrow
Kramer	O'Neal, Ky.	Sparkman	Wood
Lanzetta	O'Neill, N. J.	Steagall	Zimmerman
Larrabee	Oliver	Sullivan	
Lewis, Md.	Owen	Taylor, Colo.	
Long	Patrick	Taylor, Tenn.	

So the previous question was not ordered.

Mr. MANSFIELD changed his vote from "no" to "aye."

The Clerk announced the following pairs:

On the vote:

Mr. Flannagan (for) with Mr. Gilchrist (against).
Mr. Gasque (for) with Mr. Douglas (against).
Mr. Vinson of Georgia (for) with Mr. Fish (against).
Mr. Long (for) with Mr. Taylor of Tennessee (against).
Mr. Dickstein (for) with Mr. Oliver (against).
Mr. O'Leary (for) with Mr. Champion (against).
Mr. White of Idaho (for) with Mr. Kelly of Illinois (against).
Mr. Biermann (for) with Mr. Kennedy of New York (against).
Mr. Duncan (for) with Mr. Lanzetta (against).
Mr. Crowe (for) with Mr. Cluett (against).
Mr. Boylan of New York (for) with Mr. Jenks of New Hampshire (against).
Mr. Weaver (for) with Mr. Withrow (against).
Mr. Hook (for) with Mr. Teigan (against).

General pairs:

Mr. Rankin with Mr. Welch.
Mr. Boehne with Mr. Deen.
Mr. Schuetz with Mr. Sparkman.
Mr. Bland with Mr. Keller.
Mr. Hancock of North Carolina with Mr. Larrabee.
Mr. Colden with Mr. Buck.
Mr. Steagall with Mr. Wood.
Mr. Drewry of Virginia with Mr. Kramer.
Mr. Doughton with Mr. Allen of Louisiana.
Mr. Sabath with Mr. Shannon.
Mr. Harter with Mr. Green.
Mr. Zimmerman with Mr. Casey of Massachusetts.
Mr. Mitchell of Tennessee with Mr. O'Neal of Kentucky.
Mr. Boykin with Mr. McKeough.
Mr. Cartwright with Mr. Buckley.
Mr. Crosby with Mr. Fries of Illinois.
Mr. McAndrews with Mr. Caldwell.
Mr. Sullivan with Mr. Cummings.
Mr. Patrick with Mrs. Jenckes of Indiana.
Mr. Bean with Mr. Lewis of Maryland.
Mr. Wilcox with Mr. Gildea.
Mr. O'Neill of New Jersey with Mr. Kocialkowski.
Mr. Jarman with Mr. McSweeney.
Mr. Smith of Oklahoma with Mr. Whelchel.
Mr. Cole of Maryland with Mr. O'Connell of Montana.
Mr. Hancock of North Carolina with Mr. Flaherty.
Mr. Collins with Mr. Haines.
Mr. Merritt with Mr. Taylor of Colorado.
Mr. Thompson of Illinois with Mr. Owen.
Mr. Scrugham with Mr. O'Brien of Illinois.
Mr. Sanders with Mr. Smith of Washington.
Mr. Secrest with Mr. Lucas.

The result of the vote was announced as above recorded.

Mr. COCHRAN. Mr. Speaker, I withdraw my motion.

The SPEAKER. The gentleman from Missouri withdraws his motion.

LEAVE OF ABSENCE

By unanimous consent leave of absence was granted as follows:

To Mr. JARMAN (at the request of Mr. HOBBS) on account of death of relative.

To Mr. CROWE, for 3 days, on account of official and legislative business.

To Mr. TURNER, for 5 days, on account of important business.

SENATE RESOLUTIONS REFERRED

A joint resolution and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. J. Res. 205. Joint resolution providing for adjustment payments and loans to cotton producers with respect to cotton produced in 1937; to the Committee on Agriculture.

S. Con. Res. 28. Concurrent resolution authorizing the Special Committee to Investigate Unemployment and relief, United States Senate, to have printed for its use additional copies of the hearings on the resolution (S. Res. 36) creating a Special Committee to Investigate Unemployment and Relief; to the Committee on Printing.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 1355. An act for the relief of Lawrence E. Thomas;

H. R. 3657. An act for the relief of Albert Pina Afonso, a minor;

H. R. 3776. An act for the relief of T. T. East and the Cassidy Southwestern Commission Co., citizens of the State of Texas;

H. R. 4221. An act for the relief of John M. Fuller;

H. R. 4229. An act for the relief of Clifford Belcher;

H. R. 6061. An act for the relief of Mary Dougherty;

H. R. 6232. An act for the relief of Frank Christy and other disbursing agents in the Indian Service of the United States;

H. R. 6467. An act for the relief of the Portland Electric Power Co.;

H. R. 7676. An act for the relief of the Complete Machinery & Equipment Co., Inc., and others;

H. R. 8432. An act to provide for a flowage easement on certain ceded Chippewa Indian lands bordering Lake of the Woods, Warroad River, and Rainy River, Minn., and for other purposes;

H. R. 8885. An act for the benefit of the Goshute and other Indians, and for other purposes;

H. J. Res. 499. Joint resolution authorizing the erection of a memorial to the late Guglielmo Marconi; and

H. J. Res. 594. Joint resolution directing the Federal Trade Commission to investigate the policies employed by manufacturers in distributing motor vehicles, accessories, and parts, and the policies of dealers in selling motor vehicles at retail, as these policies affect the public interest.

ADJOURNMENT

Mr. COCHRAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 27 minutes p. m.) the House adjourned until tomorrow, Saturday, April 2, 1938, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON NAVAL AFFAIRS

There will be a meeting of the full open committee, Naval Affairs, at 10:30 a. m. Monday, April 4, 1938; continuation of consideration of H. R. 9315, to regulate the distribution, promotion, and retirement of officers of the line of the Navy, and for other purposes.

COMMITTEE ON FLOOD CONTROL

The Committee on Flood Control will continue hearings on Saturday, April 2, 1938, at 10 a. m., on the comprehensive flood-control bill.

The Committee on Flood Control will continue hearings on Monday, April 4, 1938, at 10 a. m.

COMMITTEE ON RIVERS AND HARBORS

The Committee on Rivers and Harbors will meet Tuesday, April 5, 1938, at 10:30 a. m., to hold hearings on the project for the improvement of the Delaware River between Philadelphia and the sea.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

There will be a meeting of Mr. MALONEY's subcommittee of the Committee on Interstate and Foreign Commerce at 10 a. m. Tuesday, April 5, 1938. Business to be considered: Continuation of hearing on S. 1261—through routes.

There will be a meeting of Mr. BULWINKLE's subcommittee of the Committee on Interstate and Foreign Commerce at 10 a. m. Tuesday, April 5, 1938. Business to be considered: Hearings on H. R. 9073—to extend services of the Cape Fear River.

There will be a meeting of the Committee on Interstate and Foreign Commerce at 10 a. m. Tuesday, April 12, 1938. Business to be considered: Hearing on H. R. 9047—control of venereal diseases, and other kindred bills.

COMMITTEE ON MERCHANT MARINE AND FISHERIES

The Merchant Marine and Fisheries Committee will hold hearings at 10 a. m. in room 219, House Office Building, on the following bills on the dates indicated:

Tuesday, April 5, 1938:

S. 2580. To amend existing laws so as to promote safety at sea by requiring the proper design, construction, maintenance, inspection, and operation of ships; to give effect to the Convention for Promoting Safety of Life at Sea, 1929; and for other purposes.

Tuesday, April 12, 1938:

H. R. 6797. To provide for the establishment, operation, and maintenance of one or more fish-cultural stations in each of the States of Oregon, Washington, and Idaho.

H. R. 8956. To provide for the conservation of the fishery resources of the Columbia River; establishment, operation, and maintenance of one or more stations in Oregon, Washington, and Idaho; and for the conduct of necessary investigations, surveys, stream improvements, and stocking operations for these purposes.

S. 2307. To provide for the conservation of the fishery resources of the Columbia River; establishment, operation, and maintenance of one or more stations in Oregon, Washington, and Idaho; and for the conduct of necessary investigations, surveys, stream improvements, and stocking operations for these purposes.

Thursday, April 14, 1938:

H. R. 8533. To amend section 4370 of the Revised Statutes of the United States (U. S. C., 1934 ed., title 46, sec. 316).

Tuesday, April 19, 1938:

H. R. 5629. To exempt motorboats less than 21 feet in length not carrying passengers for hire from the act of June 9, 1910, regulating the equipment of motorboats.

H. R. 7089. To require examinations for issuance of motorboat operators' licenses.

H. R. 8839. To amend laws for preventing collisions of vessels, to regulate equipment of motorboats on the navigable waters of the United States, to regulate inspection and manning of certain motorboats which are not used exclusively for pleasure and those which are not engaged exclusively in the fisheries on inland waters of the United States, and for other purposes.

COMMITTEE ON THE POST OFFICE AND POST ROADS

There will be a hearing before Subcommittee No. 1 of the Committee on the Post Office and Post Roads at 10 a. m. Wednesday, April 6, 1938, on bills in behalf of custodial employees in the Postal Service. Room 213, House Office Building.

EXECUTIVE COMMUNICATIONS, ETC.

1207. Under clause 2 of rule XXIV a communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Federal Power Commission for the fiscal year 1939, amounting to $300,000 (H. Doc. No. 566), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. McLAUGHLIN: Committee on the Judiciary. House Joint Resolution 622. Joint resolution authorizing the President of the United States of America to proclaim October 11, 1938, General Pulaski's Memorial Day for the observance and commemoration of the death of Brig. Gen. Casimir Pulaski; without amendment (Rept. No. 2072). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. SCHULTE: Committee on Immigration and Naturalization. H. R. 8419. A bill for the relief of Yankiel Owsianka, alias Jack Singer; without amendment (Rept. No. 2073). Referred to the Committee of the Whole House.

Mr. SCHULTE: Committee on Immigration and Naturalization. H. R. 8481. A bill for the relief of Oskar Herlins; without amendment (Rept. No. 2074). Referred to the Committee of the Whole House.

Mr. SCHULTE: Committee on Immigration and Naturalization. H. R. 8746. A bill for the relief of Cesare Guglielmo Leopoldo Torrelli; without amendment (Rept. No. 2075). Referred to the Committee of the Whole House.

Mr. SCHULTE: Committee on Immigration and Naturalization. H. R. 9322. A bill for the relief of Santa Tedesco; without amendment (Rept. No. 2076). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BUCKLER of Minnesota: A bill (H. R. 10124) to provide funds for construction and equipment of a day-school building at Ponemah on the Red Lake Indian Reservation, Minn.; to the Committee on Indian Affairs.

By Mr. IZAC: A bill (H. R. 10125) to add to the Cleveland National Forest, Calif., certain contiguous lands of the United States which can be most effectively and economically protected and administered as parts of said national forest; to the Committee on the Public Lands.

By Mr. DEMPSEY: A bill (H. R. 10126) to amend section 2139 of the Revised Statutes, as amended; to the Committee on Indian Affairs.

By Mr. CROSSER: A bill (H. R. 10127) to regulate interstate commerce by establishing an unemployment-insurance system for individuals employed by certain employers engaged in interstate commerce, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SANDERS: A bill (H. R. 10128) to provide for tariff equalization on the manufacturing of cotton and synthetic fibers; to the Committee on Ways and Means.

By Mr. LAMBERTSON: A bill (H. R. 10129) to amend section 4915 of the Revised Statutes relating to bills in equity to obtain patents; to the Committee on Patents.

By Mr. SIROVICH: Resolution (H. Res. 457) calling on the Merchant Marine and Fisheries Committee to appoint a subcommittee to investigate alleged unsatisfactory conditions in merchant marine; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN of Delaware: A bill (H. R. 10130) for the relief of John S. Wingate; to the Committee on Claims.

By Mr. ASHBROOK: A bill (H. R. 10131) granting an increase of pension to Annie K. McIntyre; to the Committee on Invalid Pensions.

By Mr. BERNARD: A bill (H. R. 10132) for the relief of Sigvard C. Foro; to the Committee on Claims.

By Mr. CARLSON: A bill (H. R. 10133) granting an increase of pension to George Taylor Lee; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10134) granting an increase of pension to Milton Lee; to the Committee on Invalid Pensions.

By Mr. McCORMACK: A bill (H. R. 10135) for the relief of James Philip Coyle; to the Committee on Naval Affairs.

By Mr. McKEOUGH: A bill (H. R. 10136) for the relief of John Patrick Toth; to the Committee on Immigration and Naturalization.

By Mr. PETERSON of Florida: A bill (H. R. 10137) to authorize a determination of the right of Col. Linwood M.

Gable to the award of the Distinguished Service Cross; to the Committee on Military Affairs.

By Mr. SHEPPARD: A bill (H. R. 10138) for the relief of James Richard Barnes; to the Committee on Naval Affairs.

Also, a bill (H. R. 10139) for the relief of Hilbert R. Hall; to the Committee on Military Affairs.

HOUSE OF REPRESENTATIVES

SATURDAY, APRIL 2, 1938

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Heavenly Father, at the opening of this session we pause in recognition of Thy merciful fatherhood and to pay tribute to Thy sacred name. O Lord God, in the name of the Master, we humbly and devoutly pray for wisdom and understanding. We most earnestly entreat Thee to enrich our hearts with His spirit. The very essence of His holy character was love. In Him was no guile; poise and self-mastery were the crowns of His being. Hear us for His name's sake.

Our Father which art in heaven, hallowed be Thy name, Thy kingdom come, Thy will be done in earth as it is in heaven. Give us this day our daily bread and forgive us our trespasses as we forgive those who trespass against us, and lead us not into temptation but deliver us from evil, for Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed without amendment bills of the House of the following titles:

H. R. 8654. An act to amend the act entitled "An act authorizing the Secretary of the Treasury to convey to the city of Wilmington, N. C., Marine Hospital Reservation," being chapter 93, United States Statutes at Large, volume 42, part 1, page 1260, approved February 17, 1923;

H. R. 8714. An act authorizing the State of Maryland, by and through its State roads commission or the successors of said commission, to construct, maintain, and operate certain bridges across streams, rivers, and navigable waters which are wholly or partly within the State; and

H. R. 9418. An act to amend an act entitled "An act authorizing the Secretary of the Treasury to convey to the Board of Education of New Hanover County, N. C., portion of marine-hospital reservation not needed for marine-hospital purposes," approved July 10, 1912 (37 Stat. 191).

The message also announced that the Senate had passed, with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 8099. An act to amend certain administrative provisions of the Tariff Act of 1930, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3735. An act to amend section 5d of the Reconstruction Finance Corporation Act, as amended, to authorize loans to public agencies, to provide credit facilities for business enterprises, and for other purposes.

EXTENSION OF REMARKS

Mr. FORD of Mississippi. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a couple of tables showing electrical power rates in cities and towns in my district.

There was no objection.

Mr. PIERCE. Mr. Speaker, I ask unanimous consent to have printed in the RECORD at this point, the T. V. A. resolution as finally adopted by Congress.

The SPEAKER. Is there objection?

There was no objection.

Joint resolution (S. J. Res. 277) creating a special joint congressional committee to make an investigation of the Tennessee Valley Authority.

Resolved, etc., That for the purpose of obtaining information as a basis for legislation there is hereby created a special joint congressional committee to be composed of five Senators to be appointed by the President of the Senate and five Members of the House of Representatives to be appointed by the Speaker of the House of Representatives. A vacancy on the joint committee shall be filled in the same manner as original appointments and shall not affect the power of the remaining members to execute the functions incumbent on the joint committee.

SEC. 2. It shall be the duty of the joint committee to make a full and complete investigation of the administration of the Tennessee Valley Authority Act of 1933, as amended, including the following, but not excluding any other matters pertaining to the administration and policies:

(a) The efficient and economical administration of the act as amended by the Board of Directors of the Tennessee Valley Authority and any of its subordinates.

(a) (2) The total Federal sums appropriated by the Congress or allocated by the President to the Muscle Shoals project and the Tennessee Valley Authority, and also allocations made to power, navigation, flood control or otherwise, and the cost charged to power recoverable to the Treasury of the United States.

(b) Any interference or handicaps placed in the way of the prompt, efficient, and economical administration of its functions by internal dissension among members of the Board of Directors of the Tennessee Valley Authority and what effect such dissension, if any, has had upon the work of the Authority.

(c) Whether any member of said Board has held office or is holding office in violation of the act creating the Tennessee Valley Authority; and whether any member of said Board has aided or assisted directly or indirectly any private power company or other private interest in the institution or defense of suits and injunctions affecting the administration of the functions of the Tennessee Valley Authority.

(d) Whether, and if so, what suits have been instigated by any private power company or other private interest seeking injunctions against the activities of the Board; and what effect, if any, such injunctions or suits have had upon the administration of the act according to its terms; what disposition has been made of any such injunction suits and what has been the expense incurred by the Tennessee Valley Authority in defending them; what disposition has been made of such suits in any superior court to which they have been appealed; and what, if any, has been the loss of revenue to the Authority on account of such suits.

(e) Whether any financial loss has been caused to municipalities or farm organizations by preventing their purchase of electric power from the Tennessee Valley Authority.

(f) What has been the effect, if any, upon the personnel and organization perfected by the Board under said act by the prosecution of such injunction suits or by the action of any member of the Board in giving aid or assistance to any private power company or other private interest in connection therewith.

(g) What activities there have been, if any, on the part of any private power company or other private interest in attempting by the expenditure of money or otherwise, the institution of legal proceedings, or other means or methods, to affect the action or decisions of municipalities or farm organizations in the Tennessee Valley Authority with respect to the purchase of electric power from the Authority.

(h) What efforts, if any, have been made by private power companies or other private interests to affect the decisions or actions of municipalities or farm organizations with respect to the purchase of power from the Authority or acquiring title to their distributing systems.

(i) Whether and to what extent, if any, have the public interests been injured or jeopardized by the activities of any private power companies or other private interest in attempting to prevent the Board from executing the provisions of said act.

(j) Whether or not said Authority has complied with that part of subsection (a) of section 8 of such act, as amended, which requires that the principal office of the Authority be maintained in the immediate vicinity of Muscle Shoals, Ala.

(k) Whether the charges made by Chairman Arthur E. Morgan that an attempt to defraud the Government of the United States has been made in connection with purchase of certain lands are true; whether the affairs of the Authority had been conducted in a clandestine manner frequently without the knowledge or presence of the Chairman; whether by action of the majority members the Chairman has not had opportunity to present his views before congressional committees.

(l) Whether the Tennessee Valley Authority has exhibited partiality to large corporations by supplying power at a cheaper rate than available to municipalities and corporations, by contracting for long periods of time a large majority of available hydroelectric power and by including in such industrial contracts provisions tantamount to a secret rebate in that delivery of "secondary" power is provided during the season of the year when only "firm" power is available from Tennessee Valley Authority dams.